Journal of the Senate

Number 18 **Tuesday, May 2, 1995**

CALL TO ORDER

The Senate was called to order by the President at 10:00 a.m. A quorum present—39:

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	

Excused: Senator Turner; and Senators Diaz-Balart, Beard, Dantzler, Casas, Childers, Hargrett, Harris, Dudley, Horne, Jenne, Kirkpatrick, Sullivan, Williams, Myers, Bankhead, Gutman, Kurth, Ostalkiewicz, Thomas, Crist, Burt, Jones, Latvala, Silver and Weinstein, periodically for the purpose of working on Appropriations

PRAYER

The following prayer was offered by Dr. Robert W. Battles, Jr., Pastor, First Presbyterian Church, Gainesville:

Almighty God, you have called us to join with you in creating a world that reflects love and compassion. You have promised that when people are faithful to your vision, you will bless the work of their hands and the love of their hearts.

We thank you for this great state of ours and all the opportunities it provides. Give to each one who serves on our behalf the spirit of wisdom and understanding, so that they might use their authority to serve faithfully and promote the general welfare.

Bless our Senators and all who work with them as they struggle in these final days with the scores of difficult decisions before us that in and through the deliberations in this chamber and the compromises worked out with the House our great state might show the nation that violence, discord and confusion can be overcome with peace, harmony and understanding.

When times are prosperous, let our hearts be thankful; and, in troubled times, do not let our trust in you fail.

Hear this our prayer, Mighty God. Amen.

PLEDGE

Senate Pages, Alfred Gainous, Jr., of Tallahassee and Matt James of Gainesville, led the Senate in the pledge of allegiance to the flag of the United States of America.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Jenne, by two-thirds vote **CS for SB 990, SB 1466, SB 2168, CS for SB 2432, CS for SB 2436, CS for SB 2686, SB 2662** and **CS for SB 830** were withdrawn from the Committee on Ways and Means.

On motion by Senator Jennings, by two-thirds vote **SB 1690, SB 2678** and **SB 2384** were withdrawn from the Committee on Judiciary; **CS for SB 2622** was withdrawn from the Committee on Health Care; **SB 2542** was withdrawn from the Committee on Education; **CS for SB's 2944 and 2206** was withdrawn from the Committee on Governmental Reform and Oversight; **SB 2926** was withdrawn from the Committee on Community Affairs; **SB 1650** was withdrawn from the Committee on Higher Education; **SB 1754** was withdrawn from the Committee on Criminal Justice; **CS for HB 687** and **CS for HB 2533** were withdrawn from the Committees on Criminal Justice; and Ways and Means; and referred to the Committee on Rules and Calendar; and **CS for HB's 1191 and 1819** was withdrawn from the Committees on Education; and Ways and Means; and referred to the Committee on Rules and Calendar.

On motion by Senator Myers, by two-thirds vote **SB 2226** was withdrawn from the committees of reference and further consideration.

On motion by Senator Jennings, by two-thirds vote **CS for SB 1336** was withdrawn from the Committee on Rules and Calendar; **CS for CS for HB's 461 and 1885** was withdrawn from the Committees on Criminal Justice; and Ways and Means; and referred to the Committee on Rules and Calendar; and **SB 2928** was withdrawn from the Committee on Community Affairs.

MOTIONS RELATING TO COMMITTEE MEETINGS

On motion by Senator Crist, the rules were waived and the Committee on Executive Business, Ethics and Elections was granted permission to meet from 12:15 p.m. until 1:30 p.m. and from 5:15 p.m. to 9:00 p.m. this day, to consider executive appointments.

SPECIAL ORDER

CS for SB 2164—A bill to be entitled An act relating to juvenile justice; amending s. 20.316, F.S., relating to the Department of Juvenile Justice; removing references to subdistricts; amending s. 39.01, F.S.; clarifying definitions with respect to juvenile proceedings; amending s. 39.0145, F.S.; specifying that direct contempt of court includes traffic court; amending s. 39.017, F.S., relating to attorney's fees; revising provisions relating to presumption against indigency to substitute references to "parent or legal guardian" for references to "defendant"; amending s. 39.025, F.S.; removing a reference to subdistricts; amending s. 39.037, F.S.; providing for notification of other education providers with respect to specified delinquent acts or violations of law; amending s. 39.039, F.S., relating to fingerprinting for misdemeanor offenses; correcting cross-references; amending s. 39.042, F.S., relating to use of detention; adding a cross-reference with respect to domestic violence offenses; amending s. 39.044, F.S.; adding home detention care as a type of detention care and adding a cross-reference with respect to domestic violence offenses; amending s. 39.0445, F.S., relating to juvenile domestic violence offenders; adding a cross-reference with respect to domestic violence offenses; amending s. 39.047, F.S., relating to intake and case management; adding a cross-reference with respect to prosecution as an adult and specifying that written reasons will be provided to the court; amending s. 39.0475, F.S.; providing for approval of intervention programs by alternative sanctions coordinators; amending s. 39.052, F.S., relating to hearings; providing for prosecution of a child as adult; amending s. 39.0581, F.S.; revising criteria for commitment to a maximum-risk residential program; amending s. 39.0585, F.S.; clarifying which juveniles are to be included in the information system; amending s. 39.059, F.S.; correcting a reference with respect to legal guardians; amending s. 39.426, F.S.; revising case staffing committee composition for children in need of services; amending ss. 4 and 6, ch. 94-209, Laws of Florida; changing the annual Juvenile Justice Advisory Board report date and delaying the youthful offender study final report for 1 year; amending s. 230.335, F.S.; providing for specified notification of other education providers; amending s. 232.19, F.S.; requiring school administrators to submit reports for child-in-need-of-services petitions to the local case staffing committees of the Department of Juvenile Justice in habitual truancy cases; amending s. 236.081, F.S.;

placing special programs for teenage parents into the funding category of programs for students at risk; amending s. 316.655, F.S.; revising release procedures for a juvenile arrested for driving under the influence; amending s. 415.515, F.S.; authorizing the Department of Juvenile Justice to develop family builders programs; amending s. 415.51, F.S.; providing access by the Department of Juvenile Justice to the Department of Health and Rehabilitative Services' abuse records; amending s. 790.22, F.S., relating to firearms possession offenses by minors; changing certain references to the Department of Health and Rehabilitative Services to references to the Department of Juvenile Justice; providing conforming language; repealing s. 39.0587, F.S., relating to transfer of a child for prosecution as an adult; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 2164** to conform the bill to **HB 2505**.

Pending further consideration of **CS for SB 2164** as amended, on motion by Senator Johnson, by two-thirds vote **HB 2505** was withdrawn from the Committees on Criminal Justice; Health and Rehabilitative Services; and Ways and Means.

On motion by Senator Johnson, the rules were waived and—

HB 2505—A bill to be entitled An act relating to juvenile justice; amending s. 20.316, F.S., relating to the Department of Juvenile Justice; removing references to subdistricts; amending s. 39.01, F.S.; clarifying definitions with respect to juvenile proceedings; amending s. 39.0145, F.S.; specifying that direct contempt of court includes traffic court; amending s. 39.017, F.S., relating to attorney's fees; revising provisions relating to presumption against indigency to substitute references to "parent or legal guardian" for references to "defendant"; amending s. 39.025, F.S.; removing a reference to subdistricts; amending s. 39.037, F.S.; providing for notification of other education providers with respect to specified delinquent acts or violations of law; amending s. 39.039, F.S., relating to fingerprinting for misdemeanor offenses; correcting cross references; amending s. 39.042, F.S., relating to use of detention; adding a cross reference with respect to domestic violence offenses; amending s. 39.044, F.S.; adding home detention care as a type of detention care and adding a cross reference with respect to domestic violence offenses; amending s. 39.0445, F.S., relating to juvenile domestic violence offenders; adding a cross reference with respect to domestic violence offenses; amending s. 39.047, F.S., relating to intake and case management; adding a cross reference with respect to prosecution as an adult and specifying that written reasons will be provided to the court; amending s. 39.0475, F.S.; providing for approval of intervention programs by alternative sanctions coordinators; amending s. 39.052, F.S., relating to hearings; transferring and amending s. 39.0587, F.S., relating to prosecution of child as adult, as a new subsection under said section; amending s. 39.0581, F.S.; revising criteria for commitment to a maximum-risk residential program; amending s. 39.0583, F.S.; correcting a cross reference; amending s. 39.0585, F.S.; clarifying which juveniles are to be included in the information system; amending s. 39.059, F.S.; correcting a reference with respect to legal guardians; amending s. 39.426, F.S.; revising case staffing committee composition for children in need of services; amending s. 39.003, F.S., amending s. 6, ch. 94-209, Laws of Florida, changing the annual Juvenile Justice Advisory Board report date and delaying the youthful offender study final report for 1 year; amending s. 230.335, F.S.; providing for specified notification of other education providers; amending s. 232.19, F.S.; providing sanctions for nonattendance at alternative schools; amending s. 236.081, F.S.; placing special programs for teenage parents into the funding category of programs for students at risk; amending s. 316.655, F.S.; revising release procedures for a juvenile arrested for driving under the influence; amending s. 415.515, F.S.; authorizing the Department of Juvenile Justice to develop family builders programs; amending s. 415.51, F.S.; providing access by the Department of Juvenile Justice to the Department of Health and Rehabilitative Services' abuse records; amending s. 790.22, F.S., relating to firearms possession offenses by minors; changing certain references to the Department of Health and Rehabilitative Services to references to the Department of Juvenile Justice; providing conforming language; amending s. 20.316, F.S.; requiring the establishment by the Department of Juvenile Justice of a juvenile justice information system; providing for reports by the department; amending s. 409.146, F.S.; providing for a separate children and families client and management information system in the Department of Health and Rehabilitative Services; amending s. 943.06, F.S.; renaming the Criminal Justice Information Systems Council as the Criminal and Juvenile Justice Information Systems Council; providing for the membership of the Secretary of Juvenile Justice on the council; amending s. 943.08, F.S.; providing additional duties of the council; amending s. 39.025, F.S.; revising procedures for grant applications; transferring the administration of the community juvenile justice partnership grants program from the interagency task force in the Department of Legal Affairs to the Department of Juvenile Justice; providing for a type two transfer of powers, duties, functions, records, personnel, property, and unexpended balances of appropriations and allocations; repealing s. 320.08045, F.S., relating to the motor vehicle theft prevention surcharge on license tax; amending s. 320.08046, F.S.; consolidating two surcharges on license taxes and conforming guidelines for surcharge distribution; repealing s. 860.1545, F.S., relating to the interagency task force in the Department of Legal Affairs; amending s. 860.158, F.S.; conforming provisions relating to the Florida Motor Vehicle Theft Prevention Trust Fund distribution; creating s. 39.0551, F.S.; authorizing the Department of Juvenile Justice to establish residential juvenile assignment centers; requiring certain services to be offered in juvenile assignment centers; providing for the placement of a juvenile in an assignment center; providing for the transfer of a juvenile from an assignment center to a commitment program; requiring assignment centers to be physically secure; amending s. 39.044, F.S., relating to detention; providing for a child to be held or treated in a juvenile assignment center under specified circumstances; amending s. 39.01, F.S.; defining "juvenile sexual offender" and "juvenile sexual abuse"; amending s. 39.044, F.S.; providing procedures when a juvenile sexual offender is placed in detention; requiring detention staff to notify law enforcement and school personnel of a juvenile sexual offender's release or transfer; amending s. 39.052, F.S.; allowing the court to place a sexual offender in community-based treatment at an adjudicatory hearing; providing procedures for a multidisciplinary assessment, including assessment by certified psychologist, therapist, or psychiatrist; providing for reports; providing court authority to review or revoke treatment; amending s. 39.054, F.S.; authorizing the court, subject to specific appropriation, to commit a juvenile sexual offender to the Department of Juvenile Justice for placement in specified programs; amending s. 39.067, F.S.; requiring outpatient sexual offender counseling, subject to specific appropriation, as a component of aftercare services for a juvenile sexual offender furloughed from a commitment program; creating s. 39.0571, F.S.; creating juvenile sexual offender commitment programs; requiring the Department of Juvenile Justice to establish procedures and protocols with certain agencies; providing contracting authority; requiring quality assurance and certain outcome evaluation efforts; providing rulemaking authority; amending s. 415.50165, F.S.; defining "alleged juvenile sexual offender," "juvenile sexual abuse," and "victim"; creating s. 415.50171, F.S.; requiring a family services response system approach to reports of child-on-child sexual abuse by the Department of Health and Rehabilitative Services; providing procedures; requiring certain services to be provided to the victim of juvenile sexual abuse, the alleged juvenile sexual offender, and their caregivers; requiring classification of reports by the department; providing rulemaking authority; amending s. 415.504, F.S.; requiring mandatory reporting and acceptance of juvenile sexual abuse reports by the Department of Health and Rehabilitative Services; providing procedures; requiring the Department of Juvenile Justice, the Juvenile Justice Standards and Training Commission, the Department of Health and Rehabilitative Services, and the Department of Business and Professional Regulation, in a collaborative effort, to study the requirements, licenses, certification, and training of persons providing mental health treatment to juvenile sexual offenders; requiring a report to the Governor and the Legislature; amending s. 39.054, F.S., relating to court powers of disposition with respect to a delinquent child; providing penalties for grand theft auto offenses committed by a child; amending s. 39.044, F.S.; authorizing a court to detain a child prior to his detention hearing if the child has been arrested for an offense involving an imitation firearm; amending s. 790.001, F.S.; defining the term "imitation firearm" for purposes of ch. 790, F.S., relating to weapons and firearms; amending s. 790.06, F.S., relating to licenses to carry concealed weapons or firearms; revising a cross-reference to conform to renumbering by the act; amending s. 790.07, F.S.; providing penalties for certain offenses involving the use of an imitation firearm; amending s. 874.08, F.S., relating to seizure and forfeiture profits, proceeds and instrumentalities of criminal street gangs; amending s. 874.02, F.S., relating to legislative intent regarding criminal street gangs; creating s. 784.076, F.S., to provide sanctions for battery on health services personnel; amending s. 318.14, F.S., relating to non criminal traffic infractions; providing for distribution to trust funds; amending s. 318.21, F.S., relating to disposition of civil penalties by county courts; providing for distribution to trust funds; providing legislative findings; providing for an information-sharing workgroup to develop and implement an information access and delivery system; providing

duties of the Auditor General; amending s. 228.041, F.S.; providing a condition for imposition of expulsion; amending s. 230.02, F.S.; authorizing alternative site schools within the district school system; amending s. 230.22, F.S.; providing district school board power for assignment of students to schools; amending s. 230.23, F.S.; providing for district school board cooperation; providing alternatives to student suspension and expulsion; requiring policies for assignment of violent or disruptive students and notice relating to expulsion for possession of a firearm; amending s. 230.2316, F.S., relating to dropout prevention; defining second chance schools; providing requirements and eligibility for second chance schools; providing funding; providing an effective date.

—a companion measure, was substituted for **CS for SB 2164** and read the second time by title.

Senator Hargrett moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 12, line 1, through page 15, line 5, strike all of said lines and insert:

Section 4. Section 39.0145, Florida Statutes, 1994 Supplement, is amended to read:

39.0145 Punishment for contempt of court; alternative sanctions.—

(1) CONTEMPT OF COURT; LEGISLATIVE INTENT.—The court may punish any child for contempt for interfering with the court or with court administration, or for violating any provision of this chapter or order of the court relative thereto. It is the intent of the Legislature that the court restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility. A child who commits direct contempt of court or indirect contempt of a valid court order may be taken into custody and *ordered* ~~sentenced~~ to serve an alternative sanction or placed in a secure facility, as authorized in this section, by order of the court.

(2) TAKING A CHILD INTO CUSTODY; INDIRECT CONTEMPT.—If a law enforcement officer has knowledge of a valid court order and reasonably believes that a child who meets the definition of "certain juvenile offender," as defined in s. 39.0585(1)(c), has violated that court order, the child may be taken into custody and placed in secure detention by law enforcement.

(a) The child must have a hearing before the court within 24 hours to determine whether the child committed indirect contempt of a valid court order.

(b) If the child does not have a hearing before the court within 24 hours to determine whether the child committed indirect contempt of a valid court order, the child must be released from secure detention. The child shall not be placed in secure detention subsequent to release unless the child has been found by the court to have committed indirect contempt.

(c) If a child is released from secure detention because an indirect contempt hearing could not be held within 24 hours and law enforcement has probable cause that the child has committed indirect contempt of court, the state attorney may petition the court for an indirect contempt hearing as provided in subsection (5).

(3)~~(2)~~ PLACEMENT IN A SECURE FACILITY.—A child may be placed in a secure facility for purposes of punishment for contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been *ordered* ~~sentenced~~ to serve an alternative sanction but failed to comply with the *sanction* ~~sentence~~.

(a) A delinquent child who has been held in direct or indirect contempt may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense, or in a secure residential commitment facility.

(b) A child in need of services who has been held in direct contempt or indirect contempt may be placed, for 5 days for a first offense or 15 days for a second or subsequent offense, in a staff-secure shelter or a staff-secure residential facility solely for children in need of services if such placement is available, or, if such placement is not available, the child may be placed in an appropriate mental health facility or substance abuse facility for assessment.

(4)~~(3)~~ ALTERNATIVE SANCTIONS.—Each judicial circuit shall have an alternative sanctions coordinator who shall serve under the chief administrative judge of the juvenile division of the circuit court, and who shall coordinate and maintain a spectrum of contempt sanction alternatives in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c). Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the alternative sanctions coordinator to recommend the most appropriate available alternative sanction and shall *order* ~~sentence~~ the child to perform up to 50 hours of community-service manual labor or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity that has entered into a contract with the Department of Juvenile Justice to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the manual labor of children and limited immunity in accordance with s. 768.28(11).

(5)~~(4)~~ CONTEMPT OF COURT *SANCTIONS* ~~SENTENCING~~; PROCEDURE AND DUE PROCESS.—

(a) If a child is charged with direct contempt of court, *including traffic court,* the court may impose an authorized sanction immediately.

(b) If a child is charged with indirect contempt of court, the court must hold a hearing within 24 hours to determine whether the child committed indirect contempt of a valid court order. At the hearing, the following due process rights must be provided to the child:

1. Right to a copy of the *order to show cause alleging facts supporting* ~~petition requesting~~ the contempt *charge* ~~sentence~~.

2. Right to an explanation of the nature and the consequences of the proceedings.

3. Right to legal counsel and the right to have legal counsel appointed by the court if the juvenile is indigent, pursuant to s. 39.041.

4. Right to confront witnesses.

5. Right to present witnesses.

6. Right to have a transcript or record of the proceeding.

7. Right to appeal to an appropriate court.

The child's parent or guardian may address the court regarding the due process rights of the child. The court shall review the placement of the child every 72 hours to determine whether it is appropriate for the child to remain in the facility.

(c) The court may not order that a child be placed in a secure facility for punishment for contempt unless the court determines that an alternative sanction is inappropriate or unavailable or that the child was initially *ordered* ~~sentenced~~ to an alternative sanction and did not comply with the alternative sanction. The court is encouraged to order a child to perform community service, up to the maximum number of hours, where appropriate before ordering that the child be placed in a secure facility as punishment for contempt of court.

(6)~~(5)~~ ALTERNATIVE SANCTIONS COORDINATOR.—Effective July 1, 1995, there is created the position of alternative sanctions coordinator within each judicial circuit, pursuant to subsection *(4)* ~~(3)~~. Each alternative sanctions coordinator shall serve under the direction of the chief administrative judge of the juvenile division as directed by the chief judge of the circuit. The alternative sanctions coordinator shall act as the liaison between the judiciary and county juvenile justice councils, the local department officials, district school board employees, and local law enforcement agencies. The alternative sanctions coordinator shall coordinate within the circuit community-based alternative sanctions, including nonsecure detention programs, community service projects, and other juvenile sanctions, in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c).

And the title is amended as follows:

In title, on page 1, line 9, after the semicolon (;) insert: prescribing authority of law enforcement officers to take into custody children found in contempt of court outside the presence of the court; providing for hearings;

Senator Johnson moved the following amendments which were adopted:

Amendment 2—On page 50, strike all of lines 15-20 and insert: include the intake officer pursuant to s. 39.423 and *may include* the intake officer's supervisor, *a representative of the child's school district, a representative of the Department of Juvenile Justice.* ~~and may include a representative from the area of health, mental health, social, or educational services and any person recommended by the child or family~~

Amendment 3—On page 52, between lines 20 and 21, insert:

Section 23. Section 231.06, Florida Statutes, is amended to read:

231.06 Assault or battery upon district school board employee; penalties.—Whenever any student, parent, or other person commits an assault or battery upon any elected official or employee of a school district, *the Florida School for the Deaf and the Blind, a university developmental research school, or a private elementary or secondary school* and the elected official or employee is on school property or is away from school property on official school business, the offense for which the person is charged shall be classified:

(1) In the case of an assault, as a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) In the case of a battery, as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(Renumber subsequent sections.)

Amendment 4—In title, on page 2, line 27, following the first semicolon (;) insert: amending s. 231.06, F.S.; providing enhanced penalties for assault or battery on officers or employees of the Florida School for the Deaf and the Blind, developmental research schools, and private elementary or secondary schools;

Amendment 5 (with Title Amendment)—On page 52, line 21, through page 53, line 12, strike all of said lines and insert:

Section 23. Subsection (3) of section 232.19, Florida Statutes, 1994 Supplement, is amended to read:

232.19 Court procedure and penalties.—The court procedure and penalties for the enforcement of the provisions of this chapter, relating to compulsory school attendance, shall be as follows:

And the title is amended as follows:

In title, on page 2, strike all of lines 28 and 29 and insert: procedures in habitual truancy cases; amending s. 236.081, F.S.; placing

Amendment 6—On page 53, strike all of lines 15-21 and insert: *children in need of services/family in need of services provider within their juvenile justice district, a complaint alleging the facts and a request to file a children in need of services petition. Local school districts and the Department of Juvenile Justice or its contract provider for children and Families in Need of Services shall develop a cooperative agreement which will define each agency's role and responsibility in working with habitual truants and their families.* ~~circuit court a complaint alleging the facts, and the child must be dealt with as a child in need of services, according to the provisions of chapter 39.~~ Prior to and subsequent to the

Amendment 7—On page 54, strike all of lines 8-16 and insert: educational counseling must have been provided to

Amendment 8—On page 84, between lines 11 and 12, insert:

Section 39. Sections 33 through 38 of this act shall take effect July 1, 1995.

(Renumber subsequent sections.)

Senator Bankhead moved the following amendment which was adopted:

Amendment 9—On page 87, between lines 2 and 3, insert:

(6) Notwithstanding any provision to the contrary, this section expires July 1, 1998, unless reenacted by the Legislature. The department may not create or operate a juvenile assignment center after July 1, 1998, without further legislative authority. Unless reenacted by the Legislature, any juvenile assignment center created under this section shall be converted to a high-level or maximum-level residential commitment program, subject to availability of funds.

Senator Johnson moved the following amendment which was adopted:

Amendment 10—On page 93, line 23, strike "(5) and (6)" and insert: (4) and (5)

Senator Bankhead moved the following amendment which was adopted:

Amendment 11—On page 103, lines 22 and 23 and on page 104, lines 20 and 21, strike "*Department of Business and Professional Regulation*" and insert: *Agency for Health Care Administration*

Senator Johnson moved the following amendment which was adopted:

Amendment 12—On page 97, line 24, strike "*upon*" and insert: *subject to specific appropriation, upon*

Senators Grant and Johnson offered the following amendment which was moved by Senator Johnson and adopted:

Amendment 13—On page 106, line 5, through page 114, line 6, strike all of said lines and renumber subsequent sections.

Senator Johnson moved the following amendments which were adopted:

Amendment 14—On page 128, line 6, following the period (.) insert: *As partnership programs, second-chance schools are eligible for waivers from the Commissioner of Education to chapters 230 through 235 and 239 and State Board of Education rules that prevent the provision of appropriate educational services to violent, severely disruptive, and delinquent students in small nontraditional settings and in court-adjudicated settings.*

Amendment 15—On page 4, line 19, after the first semicolon (;) insert: providing an effective date;

Senators Grant and Johnson offered the following amendment which was moved by Senator Johnson and adopted:

Amendment 16—In title, on page 7, strike all of lines 1-14 and insert: offenses committed by a child; amending s.

On motion by Senator Johnson, by two-thirds vote **HB 2505** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **SB 2360, CS for SB 2422, SB 152** and **SB 442** was deferred.

SB 2036—A bill to be entitled An act relating to the qualified defense contractor tax refund program; reenacting and amending s. 288.104, F.S., which establishes such program and provides procedures, requirements, limitations, and penalties with respect thereto; revising definitions; increasing the annual limit on refunds under the program; revising requirements for application for certification and annual claim for refund; revising qualification requirements for applicants; revising provisions relating to expiration of the program; providing an effective date.

—was read the second time by title.

The Committee on Commerce and Economic Opportunities recommended the following amendment which was moved by Senator Bronson and failed:

Amendment 1 (with Title Amendment)—On page 22, between lines 28 and 29, insert:

Section 2. Paragraph (a) of subsection (3) of section 288.095, Florida Statutes, 1994 Supplement, is amended to read:

288.095 Economic Development Trust Fund.—

(3)(a) Contingent upon an annual appropriation by the Legislature, the secretary may approve not more than the lesser of *$25* ~~$10~~ million in tax refunds pursuant to ss. 288.104 and 288.106 or the amount appropriated to the Economic Development Incentives Account for such tax refunds, for a fiscal year pursuant to paragraph (b).

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 13, after the semicolon (;) insert: amending s. 288.095, F.S., to conform;

The Committee on Commerce and Economic Opportunities recommended the following amendment which was moved by Senator Bronson and adopted:

Amendment 2 (with Title Amendment)—On page 22, between lines 28 and 29, insert:

Section 2. The introductory paragraph of section 288.972, Florida Statutes, 1994 Supplement, is amended, and subsections (8), (9), and (10) are added to said section, to read:

288.972 Legislative intent.—It is the policy of this state, once the Federal Government *has proposed any base closure or* has determined that military bases, lands, or installations are to be closed and made available for reuse, to:

(8) Coordinate base retention efforts among communities in this state whose military installations are recommended for closure or realignment.

(9) Coordinate the development of the Defense-Related Business Adjustment Program to increase commercial technology development by defense companies.

(10) Coordinate the development, maintenance, and analysis of a workforce database to assist workers adversely affected by defense-related activities in their relocation efforts.

Section 3. Paragraph (a) of subsection (1) of section 288.973, Florida Statutes, 1994 Supplement, is amended to read:

288.973 Florida Defense Conversion and Transition Commission.—

(1)(a) The Florida Defense Conversion and Transition Commission is created and assigned to the Department of Commerce for administrative and primary staff support. The commission shall advise the Governor and the Legislature in the development and implementation of military base reuse, *retention, business adjustment,* and transition policy.

Section 4. Paragraph (d) of subsection (1) and paragraphs (a), (b), and (d) of subsection (2) of section 288.974, Florida Statutes, 1994 Supplement, are amended, and paragraphs (k), (l), and (m) are added to subsection (2) of said section, to read:

288.974 Powers and duties of the commission.—The commission shall carry out the specific duties described in subsections (2)-(4), and have such general powers as set forth in subsection (1).

(1) The commission shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this section, including, but not limited to:

(d) Hiring staff subject to the provisions of part V of chapter 110, *and serve as direct liaison with the Office of the Governor and the Legislature regarding program coordination and cooperation related to defense-related initiatives.*

(2) The commission shall also carry out the following specific duties as necessary:

(a) Foster coordination *and cooperation* among state government agencies and departments, local governments, and statewide service providers in order to direct resources to appropriate defense-related activities, avoid duplication and waste, and vigorously pursue relevant federal grants.

(b) Oversee statewide defense-related initiatives and, where appropriate, receive federal defense conversion, *retention, reinvestment, business adjustment,* and transition funding.

(d) Coordinate with and provide information and technical advice to Enterprise Florida, Inc., and its affiliates on matters related to the defense industry and defense conversion, *defense-related business adjustment, diversification,* reinvestment, and transition.

(k) Develop a strategy by December 31, 1995, to define the significant state and community economic reinvestment activities for continued economic prosperity in response to the economic impacts of base closures and reductions in federal defense expenditures.

(l) Disseminate conversion and transition information, services, and research to affected communities, businesses, and workers.

(m) Conduct, in cooperation with Enterprise Florida, Inc., and the Department of Commerce, a state defense diversification demonstration project to serve as a model for defense-dependent companies seeking to diversify into commercial markets. The demonstration project should include:

1. Identification of ways to improve the cash flow and profitability of participating businesses.

2. Assistance to senior management to define selection criteria and subsequent criteria to expand into new business lines.

3. Identification of alternative market opportunities.

4. Design and application of responsive state and local programs to supplement or fund the test case industrial base's alternative market expansion efforts.

Section 5. Section 288.980, Florida Statutes, 1994 Supplement, is amended to read:

288.980 Base closure, *retention,* ~~or~~ realignment, *or defense-related readjustment and diversification;* legislative intent; grants program.—

(1) It is the intent of this state to provide the necessary means to assist communities with military installations that would be adversely affected by federal base realignment or closure actions. It is further the intent to encourage communities to establish local or regional community base realignment or closure commissions to initiate a coordinated program of response and plan of action in advance of future actions of the federal Base Realignment and Closure Commission. It is critical that closure-vulnerable communities develop such a program to preserve affected military installations. The Legislature, therefore, declares that providing such assistance to *support the defense-related initiatives within this section* ~~these communities~~ is a public purpose for which public money may be used.

(2)(a) The secretary of the Department of Commerce is authorized to award grants from funds specifically appropriated for this purpose to applicants' eligible projects. Eligible projects shall be limited to:

1. Activities related to the retention of military installations potentially affected by federal base closure or realignment.

2. Activities related to preventing the potential realignment or closure of a military installation officially identified by the Federal Government for potential realignment or closure.

(b) "Activities" as used herein means studies, presentations, analyses, plans, and modeling. Travel and costs incidental thereto, and staff salaries, are not considered an "activity" for which grant funds may be awarded.

(c)~~(3)(a)~~ The amount of any grant provided to an applicant in any one year shall not exceed $250,000. The department shall require that an applicant:

1. Represent a community with a military installation or military installations that could be adversely affected by federal base realignment or closure.

2. Agree to ~~provide a~~ match ~~of~~ at least *25* ~~100~~ percent of any grant awarded by the department *in cash or in-kind services. Such match shall be* directly related to the activities for which the grant is being sought.

3. Prepare a coordinated program or plan of action delineating how the eligible project will be administered and accomplished.

4. Provide documentation describing the potential for realignment or closure of a military installation located in the applicant's community and the adverse impacts such realignment or closure will have on the applicant's community.

(d)~~(b)~~ In making grant awards for eligible projects, the department shall consider, at a minimum, the following factors:

1. The relative value of the particular military installation in terms of its importance to the local and state economy relative to other military installations vulnerable to closure.

2. The potential job displacement within the local community should the military installation be closed.

3. The potential adverse impact on industries and technologies which service the military installation.

(e)~~(c)~~ For purposes of *base closure and realignment* ~~this section~~, "applicant" means one or more counties, or a base closure or realignment commission created by one or more counties, to oversee the potential or actual realignment or closure of a military installation within the jurisdiction of such local government.

(3) The Florida Economic Reinvestment Initiative is hereby established to respond to the need for this state and defense-dependent communities in this state to develop alternative economic diversification strategies to lessen reliance on national defense dollars in the wake of base closures and reduced federal defense expenditures and the need to formulate specific base reuse plans and identify any specific infrastructure needed to facilitate reuse. The initiative shall consist of the following three distinct grant programs to be administered by the Department of Commerce:

(a) The Florida Defense Planning Grant Program, through which funds shall be used to analyze the extent to which the state is dependent on defense dollars and defense infrastructure and prepare alternative economic development strategies. The state shall work in conjunction with defense-dependent communities in developing strategies and approaches which will help communities make the transition from a defense economy to a nondefense economy. Grant awards shall not exceed $100,000 per applicant and shall be available on a competitive basis.

(b) The Florida Defense Implementation Grant Program, through which funds shall be made available to defense-dependent communities to implement the diversification strategies developed pursuant to paragraph (a). Eligible applicants shall include defense-dependent counties and cities, and local economic development councils located within such communities. Grant awards shall not exceed $100,000 per applicant and shall be available on a competitive basis. Awards shall be matched on a one-to-one basis.

(c) The Florida Military Installation Reuse Planning and Marketing Grant Program, through which funds shall be used to help counties, cities, and local economic development councils develop and implement plans for the reuse of closed or realigned military installations, including any necessary infrastructure improvements needed to facilitate reuse and related marketing activities. Grant awards shall be limited to no more than $100,000 per eligible applicant and made available through a competitive process. Awards shall be matched on a one-to-one basis.

(4)(a) The Defense-Related Business Adjustment Program is hereby created. The Secretary of Commerce is authorized to coordinate the development of the Defense-Related Business Adjustment Program. Such funds shall be available to assist defense-related companies in the creation of increased commercial technology development through investments in technology. Such technology must have a direct impact on critical state needs for the purpose of generating investment-grade technologies and encouraging the partnership of the private sector and government defense-related business adjustment. The following areas shall receive precedence in consideration for funding commercial technology development: law enforcement or corrections, environmental protection, transportation, education, and health care. Travel and costs incidental thereto, and staff salaries, are not considered an "activity" for which grant funds may be awarded.

(b) The department shall require that an applicant:

1. Be a defense-related business that could be adversely affected by federal base realignment or closure or reduced defense expenditures.

2. Agree to match at least 50 percent of any funds awarded by the department in cash or in-kind services. Such match shall be directly related to activities for which the funds are being sought.

3. Prepare a coordinated program or plan delineating how the funds will be administered.

4. Provide documentation describing how defense-related realignment or closure will adversely impact defense-related companies.

(5) The Secretary of Commerce is further authorized to award nonfederal matching funds specifically appropriated for construction, maintenance, and analysis of a Florida defense workforce database. Such funds will be used to create a registry of worker skills that can be used to match the worker needs of companies which are relocating to this state or to assist workers in relocating to other areas within this state where similar or related employment is available.

(6)~~(4)~~ The Department of Commerce shall, pursuant to chapter 120, adopt rules to implement and carry out the purpose and intent of this section.

Section 6. *(1) The sum of $1,000,000 is hereby appropriated from the General Revenue Fund to the Department of Commerce for fiscal year 1995-1996 to implement section 288.980(2)(a), Florida Statutes.*

(2) The sum of $1,500,000 is appropriated from the General Revenue Fund to the Department of Commerce for fiscal year 1995-1996 to implement the Florida Economic Reinvestment Initiative pursuant to section 288.980, Florida Statutes, of which appropriation $500,000 shall be used to implement the Florida Defense Planning Grant Program pursuant to section 288.980(3)(a), Florida Statutes, $500,000 shall be used to implement the Florida Defense Implementation Grant Program pursuant to section 288.980(3)(b), Florida Statutes, and $500,000 shall be used to implement the Florida Military Installation Reuse Planning and Marketing Grant Program pursuant to in section 288.980(3)(c), Florida Statutes.

(3) The sum of $2,100,000 is hereby appropriated from the General Revenue Fund to the Department of Commerce for fiscal year 1995-1996 to implement the Defense-Related Business Adjustment Program pursuant to section 288.980(4), Florida Statutes.

(4) The sum of $50,000 is hereby appropriated from the General Revenue Fund to the Department of Commerce for fiscal year 1995-1996 to implement section 288.980(5), Florida Statutes.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2-14 and insert: An act relating to defense conversion and economic development; reenacting and amending s. 288.104, F.S., which establishes the qualified defense contractor tax refund program and provides procedures, requirements, limitations, and penalties with respect thereto; revising definitions; increasing the annual limit on refunds under the program; revising requirements for application for certification and annual claim for refund; revising qualification requirements for applicants; revising provisions relating to expiration of the program; amending s. 288.972, F.S.; providing additional expressions of legislative intent; amending s. 288.973, F.S.; clarifying responsibilities of the Florida Defense Conversion and Transition Commission; amending s. 288.974, F.S.; clarifying powers and duties of the commission; providing additional powers and duties of the commission; amending s. 288.980, F.S.; establishing the Florida Economic Reinvestment Initiative for certain purposes; providing for the Florida Defense Planning Grant Program, the Florida Defense Implementation Grant Program, and the Florida Military Installation Reuse Planning and Marketing Grant Program; creating the Defense-Related Business Adjustment Program; providing for funding a defense workforce database for certain purposes; providing for administration of such programs by the Department of Commerce; authorizing the Secretary of Commerce to award funds for certain purposes; providing appropriations; providing an effective date.

On motion by Senator Bronson, by two-thirds vote **SB 2036** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

SB 6—A bill to be entitled An act relating to admissions to collegiate basketball tournament games; amending s. 212.04, F.S.; exempting from taxation admissions to certain collegiate basketball tournament games; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Crist and adopted:

Amendment 1 (with Title Amendment)—On page 2, line 17, strike the period (.) and insert: *, or on admissions to any Baseball All-Star games.*

And the title is amended as follows:

In title, on page 1, line 6, after "games" insert: and baseball all-star games

On motion by Senator Crist, by two-thirds vote **SB 6** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32 Nays—5

CS for SB 734—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.26352, F.S.; providing for the Breeders' Cup Meet; authorizing pari-mutuel pools on thoroughbred horse races during the meet; prohibiting the conduct of certain racing within a certain distance of the facility at which the Breeders' Cup Meet is held during the meet; providing tax benefits and credits; authorizing the broadcast of the races conducted at the meet to other locations; providing for the commingling of certain wagers; providing for rules; prohibiting receipt of tax credit until completion of audit; providing time limitations; providing for the application of the act in the event of certain statutory conflicts; repealing s. 550.26353, F.S., relating to tax credits and tax exemptions for certain permitholders; amending s. 550.09515, F.S.; providing for a winter racing season and a summer racing season; providing for assignment of racing dates; requiring racing periods to be run consecutively during a season; prohibiting an applicant or facility from conducting thoroughbred racing in more than one season; defining the term "applicant" for purposes of conducting thoroughbred racing during a season; establishing a taxing structure on live handle; establishing an application deadline; amending s. 550.615, F.S.; authorizing intertrack wagers at certain facilities; amending s. 550.2625, F.S.; requiring horserace permitholders to withhold a sum for purses on exotic wagers; providing an effective date.

—was read the second time by title.

On motion by Senator Casas, the rules were waived to allow the following amendment to be considered:

Senator Casas moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 550.26352, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 550.26352, F.S., for present text.)

550.26352 Thoroughbred Breeders' Cup Meet and racing dates; racing seasons for certain thoroughbred permitholders; pools authorized; licensing; taxes; credits; transmission of races; rules; application.—

(1)(a) Notwithstanding any provision of this chapter to the contrary, there is hereby created a special thoroughbred race meet which shall be designated as the "Breeders' Cup Meet." The thoroughbred Breeders' Cup Meet shall be conducted at the facility of the Florida permitholder selected by Breeders' Cup Limited to conduct the Breeders' Cup Meet. The Breeders' Cup Meet shall consist of 3 days: the day on which the Breeders' Cup races are conducted, the preceding day, and the subsequent day. If the permitholder conducting the Breeders' Cup Meet is located within 35 miles of one or more permitholders scheduled to conduct a thoroughbred race meet on any of the 3 days of the Breeders' Cup Meet, then operation on any of those 3 days by the other permitholders is prohibited.

(b) When there are three thoroughbred facilities located within 35 air miles of each other, there shall be a summer season beginning May 23 and ending January 2 and a winter season beginning January 3 and ending May 22. When there are two or more applicants for dates during the same season, the division shall divide the season into the same number of consecutive periods based on the following criteria:

1. To protect the overall health and welfare of the pari-mutuel industry; and

2. To provide each thoroughbred facility with an equal economic opportunity.

(c) A thoroughbred racing facility may not conduct thoroughbred racing during the same period of the winter racing season for 2 consecutive years when any two or more facilities apply for winter racing season dates. Commencing January 3, 1996, the winter racing season must be divided equally into consecutive periods with the first period being given to the facility that did not operate any date of the first half of the winter season in the previous year.

(d) Racing periods must be run consecutively during a season with no more than one applicant running at the same time.

(e) A thoroughbred racing facility may not conduct thoroughbred racing in more than one season.

(f) An applicant may not run in both the summer and winter seasons.

(2) The permitholder conducting the Breeders' Cup Meet is specifically authorized to create pari-mutuel pools during the Breeders' Cup Meet by accepting pari-mutuel wagers on the thoroughbred horse races run during said meet.

(3)(a) Upon the selection of the Florida permitholder as host for the Breeders' Cup Meet and application by the selected permitholder, the division shall issue a license to the selected permitholder to operate the Breeders' Cup Meet.

(b) With respect to the 1996 winter racing season only, the provisions of ss. 550.01215 and 550.5251 do not apply to the permitholders who race at three thoroughbred facilities located within 35 air miles of each other. Instead, these permitholders must file in writing their applications to conduct thoroughbred racing by June 1, 1995, and the division shall consider and take action on each application by July 1, 1995. Any individual, partnership, corporation, trust, or other entity that owns a controlling interest, directly or indirectly, in more than one permit or in other partnerships, corporations, trusts, or other entities that own controlling interests, directly or indirectly, in more than one permit, is considered a single applicant for the purpose of assigning dates during a single season.

(c) Notwithstanding s. 550.09515 and this section, the Breeders' Cup Meet may be conducted on dates which the selected permitholder is not otherwise authorized to conduct a race meet. As compensation for the loss of racing days caused thereby, such operating permitholders shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 and this section. This credit shall be in an amount equal to the operating loss determined to have been suffered by the operating permitholders as a result of not operating on the prohibited racing days, but shall not exceed a total of $500,000. The determination of the amount to be credited shall be made by the division upon application by the operating permitholder. The tax credits provided in this section shall not be available unless an operating permitholder is required to close a bona fide meet consisting in part of no fewer than 10 scheduled performances in the 15 days immediately preceding or 10 scheduled performances in the 15 days immediately following the Breeders' Cup Meet. Such tax credit shall be in lieu of any other compensation or consideration for the loss of racing days. There shall be no replacement or makeup of any lost racing days.

(4)(a) Notwithstanding any provision of ss. 550.0951 and 550.09515 and this section, the permitholder conducting the Breeders' Cup Meet shall pay no taxes on the handle included within the pari-mutuel pools of said permitholder during the Breeders' Cup Meet.

(b) Notwithstanding the provisions of ss. 550.09515(2) and 550.0951, the tax on handle per performance for live thoroughbred racing is 2.4 percent of handle during the summer racing season and 3.0 percent of handle during the winter racing season.

(c) Notwithstanding the provisions of ss 550.09515 and 550.0951 and this section, any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million may conduct live performances at any time of the year at the permitholder's thoroughbred racing facility and shall pay 0.5 percent on live handle per performance.

(5) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 and this section generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $800,000 and shall be utilized by the permitholder to pay the purses offered by the permitholder during the Breeders' Cup Meet in excess of the purses which the permitholder is

otherwise required by law to pay. The amount to be credited shall be determined by the division upon application of the permitholder which is subject to audit by the division.

(6) The permitholder conducting the Breeders' Cup Meet shall receive a credit against the taxes otherwise due and payable to the state under ss. 550.0951 and 550.09515 and this section generated during said permitholder's next ensuing regular thoroughbred race meet. This credit shall be in an amount not to exceed $800,000 and shall be utilized by the permitholder for such capital improvements and extraordinary expenses as may be necessary for operation of the Breeders' Cup Meet. The amount to be credited shall be determined by the division upon application of the permitholder which is subject to audit by the division.

(7) The permitholder conducting the Breeders' Cup Meet shall be exempt from the payment of purses and other payments to horsemen on all on-track, intertrack, interstate, and international wagers or rights fees or payments arising therefrom for all races for which the purse is paid or supplied by Breeders' Cup Limited. The permitholder conducting the Breeders' Cup Meet shall not, however, be exempt from breeders' awards payments for on-track and intertrack wagers as provided in ss. 550.2625(3) and 550.625(2)(a) for races in which the purse is paid or supplied by Breeders' Cup Limited

(8)(a) Pursuant to s. 550.3551(2), the permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to locations outside of this state for wagering purposes. The division may approve broadcasts to pari-mutuel permitholders and other betting systems authorized under the laws of any other state or country. Wagers accepted by any out-of-state pari-mutuel permitholder or betting system on any races broadcast under this section may be, but are not required to be, commingled with the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet. The calculation of any payoff on national pari-mutuel pools with commingled wagers may be performed by the permitholder's totalisator contractor at a location outside of this state. Pool amounts from wagers placed at pari-mutuel facilities or other betting systems in foreign countries before being commingled with the pari-mutuel pool of the Florida permitholder conducting the Breeders' Cup Meet shall be calculated by the totalisator contractor and transferred to the commingled pool in United States currency in cycles customarily used by the permitholder. Pool amounts from wagers placed at any foreign pari-mutuel facility or other betting system shall not be commingled with a Florida pool until a determination is made by the division that the technology utilized by the totalisator contractor is adequate to assure commingled pools will result in the calculation of accurate payoffs to Florida bettors. Any totalisator contractor at a location outside of this state shall comply with the provisions of s. 550.495 relating to totalisator licensing.

(b) The permitholder conducting the Breeders' Cup Meet is authorized to transmit broadcasts of the races conducted during the Breeders' Cup Meet to other pari-mutuel facilities located in this state for wagering purposes; however, the permitholder conducting the Breeders' Cup Meet shall not be required to transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted and, further, shall not transmit broadcasts to any pari-mutuel facility located within 25 miles of the facility at which the Breeders' Cup Meet is conducted without the consent of all operating permitholders in the market area. Wagers accepted by all pari-mutuel facilities located in the state on any races broadcast under this section shall be included in the pari-mutuel pools of the permitholder conducting the Breeders' Cup Meet.

(9) The exemption from the tax credits provided in subsections (5) and (6) shall not be granted and shall not be claimed by the permitholder until an audit is completed by the division. The division is required to complete the audit within 30 days of receipt of the necessary documentation from the permitholder to verify the permitholder's claim for tax credits. If the documentation submitted by the permitholder is incomplete or is insufficient to document the permitholder's claim for tax credits, the division may request such additional documentation as is necessary to complete the audit. Upon receipt of the division's written request for additional documentation, the 30-day time limitation will commence anew.

(10) The division is authorized to adopt such rules as are necessary to facilitate the conduct of the Breeders' Cup Meet as authorized in this section. Included within this grant of authority shall be the adoption of rules regarding the overall conduct of racing during the Breeders' Cup Meet so as to ensure the integrity of the races, licensing for all participants, special stabling and training requirements for foreign horses, commingling of pari-mutuel pools, and audit requirements for tax credits and other benefits.

(11) The provisions of this section shall prevail over any conflicting provisions of this chapter.

(12) As used in this section, "handle" has the same meaning as in s. 550.0951 and does not include handle from intertrack wagering.

Section 2. Section 550.26353, Florida Statutes, as created by chapter 92-348, Laws of Florida, is repealed.

Section 3. This act shall take effect upon becoming a law, except that if this act becomes a law after June 1, 1995, the provisions of this act shall apply retroactively to June 1, 1995.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.26352, F.S.; providing for a thoroughbred Breeders' Cup Meet; providing racing dates therefor; providing racing seasons for certain thoroughbred permitholders; providing limitations; authorizing pari-mutuel pools on thoroughbred horse races during the meet; providing for licensing; providing for taxes, tax benefits and tax credits; authorizing the broadcast of the races conducted at the meet to other locations; providing for the commingling of certain wagers; providing for rules; prohibiting receipt of tax credit until completion of audit; providing time limitations; providing for the application of the act in the event of certain statutory conflicts; defining the term "handle" for purposes of the section; repealing s. 550.26353, F.S., relating to tax credits and tax exemptions for certain permitholders; providing for retroactive applicability under certain circumstances; providing an effective date.

On motion by Senator Casas, further consideration of **CS for SB 734** with pending **Amendment 1** was deferred.

SB 152—A bill to be entitled An act relating to the Florida Jobs Siting Act; amending s. 403.953, F.S.; revising the eligibility requirements for projects covered by the act; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1—On page 1, line 22, after *"plastics"* insert: *fabrication*

Amendment 2—On page 2, between lines 18 and 19, insert:

(e) A local governing body of a county or municipality may, by ordinance, require the creation of an increased number of jobs for projects located within its jurisdiction.

On motion by Senator Williams, the rules were waived to allow the following amendment to be considered:

Senator Williams moved the following amendment:

Amendment 3 (with Title Amendment)—On page 1, line 8, insert:

Section 1. (1) The Rural Community Development Revolving Loan Fund Program is established in the Division of Economic Development in the Department of Commerce to facilitate the use of existing federal, state, and local financial resources by providing financial assistance to communities and counties needed for the completion of a financial package to stimulate economic development.

(2) The program shall provide for long-term loans to any county with a population of 50,000 or less, or any county with a population of 100,000 or less which is contiguous to a county with a population of 50,000 or less, as determined by the most recent official estimate pursuant to s. 186.901, Florida Statutes, residing in incorporated and unincorporated areas of the county. Loans shall be made pursuant to agreements specifying the terms and conditions agreed to between the local government and the department. Loans shall be made pursuant to application submitted by a local government and shall be legal obligations of the local government. Local governments shall repay loans with all repayments to be returned to the loan fund. Funds from repayments shall be made available for loans to other applicants.

(3) The Department of Commerce shall adopt rules for administering the program which shall include, but not be limited to, matching requirements, procedures for establishing loan interest rates, uses of funding, application procedures, and application review procedures.

(4) The Rural Community Development Revolving Loan Fund Program Committee is established in the Department of Commerce to assist the department in developing and implementing the program. The committee shall serve as the application review committee for purposes of review of loan applications. The committee shall consist of representatives of the Departments of Commerce, Transportation, Community Affairs, Environmental Protection, and Labor and Employment Security, and three representatives from rural communities, one to be appointed by the Governor, one appointed by the President of the Senate, and one appointed by the Speaker of the House of Representatives. Committee members shall be appointed annually and may be reappointed. The committee shall be chaired by the representative of the Department of Commerce. The committee shall make recommendations to the Secretary of Commerce regarding the issuance of loans.

(5) The department shall monitor each project for which a loan is made under the program and document the impact of each loan made under the program. The department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives an annual report on the activities of the program.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to economic development; establishing in the Department of Commerce the Rural Community Development Revolving Loan Fund Program for certain purposes; providing duties of the Department of Commerce; requiring the Department of Commerce to adopt rules; providing for a Rural Community Development Revolving Loan Fund Program Committee to review and approve loan applications; providing for membership; requiring an annual report on program activities;

On motion by Senator Burt, further consideration of **SB 152** with pending **Amendment 3** was deferred.

On motion by Senator Burt, by two-thirds vote **CS for HB 1269** was withdrawn from the Committees on Commerce and Economic Opportunities; and Community Affairs.

On motion by Senator Burt—

CS for HB 1269—A bill to be entitled An act relating to the confidentiality of records of an economic development agency; amending s. 288.075, F.S.; revising the definition of "economic development agency" to include certain private entities for purposes of the confidentiality of the records of such an agency; revising provisions which prohibit a public officer or employee from entering into a binding agreement with an entity with respect to which information is confidential for a specified period; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—a companion measure, was substituted for **SB 442** and read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for HB 1269** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

LOCAL BILLS

HB 599—A bill to be entitled An act relating to the Board of Juvenile Welfare, Pinellas County; amending chapter 23483, Laws of Florida, 1945, as amended; providing that any member of the board of county commissioners of Pinellas County, Florida, may serve as a member of the Board of Juvenile Welfare; providing term of office; amending chapter 65-2101, Laws of Florida, as amended; raising the petty cash account limitation; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **HB 599** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 657—A bill to be entitled An act relating to the Consolidated City of Jacksonville and the City of Atlantic Beach; excluding certain described areas, commonly known as "Johnson Island," the "Radio Station," "Dutton Island," and the "Marsh" from the territory of the Consolidated City of Jacksonville and annexing such areas to the City of Atlantic Beach; providing for referendums.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 657** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1259—A bill to be entitled An act relating to West Orange Healthcare District, Orange County; amending chapter 26066, Laws of Florida, 1949, as amended; authorizing the board of trustees to form a not-for-profit corporation, to enter into contracts and lease agreements, and to convey real and personal property with or to a not-for-profit corporation in order to carry out the purposes of this act; providing an effective date.

—was read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **HB 1259** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1285—A bill to be entitled An act relating to Santa Rosa County; amending and codifying ch. 94-490, Laws of Florida, which substantially revised ch. 79-561, Laws of Florida, as amended; amending the definition of "unclassified service"; renaming positions; providing technical amendments; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 1285** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1467—A bill to be entitled An act relating to Escambia County; amending chapter 92-248, Laws of Florida; providing for the terms of office of members of the board of the Escambia County Utilities Authority to commence on the second Tuesday following election; prohibiting a consultant to the authority from holding certain conflicting employment or contractual relationships; requiring the authority to use the most cost-effective means of providing, operating, or maintaining resource recovery systems or solid waste system collection, distribution, or disposal systems; encouraging the authority to contract with private persons on a competitive basis for any and all such systems; prohibiting the authority from discriminating against private persons who provide such systems; requiring the authority to seek competitive bids for certain activities pertaining to resource recovery systems or solid waste collection, distribution, or disposal systems; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 1467** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1565—A bill to be entitled An act relating to the Hendry County Hospital Authority, Hendry County; amending chapter 67-1446, Laws of Florida, as amended; providing that members of the governing body of the authority shall be elected rather than appointed; providing for terms of office; providing for filling of vacancies; providing for reimbursement of expenses; providing for office location and staff; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote **HB 1565** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 1595—A bill to be entitled An act relating to the Oklawaha Basin Recreation and Water Conservation and Control Authority, Lake County; amending chapter 29222, Laws of Florida, 1953, as amended; changing the name of the Oklawaha Basin Recreation and Water Conservation and Control Authority to the Lake County Water Authority; increasing the number of members of the governing board from three to five and requiring that one member reside in each of the county commission districts of Lake County; changing the termination of terms of governing board members to the first Tuesday of January the year following the election of the county commissioner from whose district such member resides; providing that board members may not serve as director of the authority; changing the number of members of the governing board required to constitute a quorum; providing a transition schedule; providing for referenda with respect to election and continued existence of the board; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **HB 1595** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2057—A bill to be entitled An act relating to Suwannee County; amending chapter 59-1903, Laws of Florida, as amended by chapter 67-2095, Laws of Florida; providing that the appointment of members of the Suwannee County Development Authority shall be changed from the Governor to the Board of County Commissioners of Suwannee County; prescribing and clarifying the Authority's powers and duties; providing an effective date.

—was read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 2057** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

HB 2361—A bill to be entitled An act relating to Gilchrist County; repealing ch. 30778, Laws of Florida, 1955, as amended, relating to the Gilchrist County Park Board; providing an effective date.

—was read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 2361** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 154—A bill to be entitled An act relating to the Palm Harbor Special Fire Control District, Pinellas County; authorizing an increase in ad valorem tax millage; providing a referendum.

—was read the second time by title. On motion by Senator Latvala, by two-thirds vote **SB 154** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—1

SB 1332—A bill to be entitled An act relating to the West Orange Healthcare District; amending sections 14 and 15 of chapter 26066, Laws of Florida, 1949, as amended; limiting the authorized rates of taxation of property for certain purposes; providing for future repeal of the authority to levy such taxes; providing an effective date.

—was read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **SB 1332** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 1410—A bill to be entitled An act relating to the City of Arcadia, DeSoto County; repealing sections 31 and 31.1 of the City Charter of the City of Arcadia; adopting a new section of the City Charter of the City of Arcadia which provides that all elections for the election of officers of the City of Arcadia shall be held and conducted in the manner prescribed in the City Code of the City of Arcadia; providing an effective date.

—was read the second time by title. On motion by Senator McKay, by two-thirds vote **SB 1410** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 1414—A bill to be entitled An act relating to the Trailer Estate Fire Control District, Manatee County; amending chapter 63-1587, Laws of Florida, as amended, to change assessments for business firms and residences; providing an effective date.

—was read the second time by title. On motion by Senator McKay, by two-thirds vote **SB 1414** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 1432—A bill to be entitled An act relating to the Parrish Fire Control District, Manatee County; amending chapter 82-325, Laws of Florida, as amended; providing for election of commissioners; increasing the rates for special assessments; increasing impact fees; providing an effective date.

—was read the second time by title. On motion by Senator McKay, by two-thirds vote **SB 1432** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Latvala, by two-thirds vote—

HB 2319—A bill to be entitled An act relating to Pasco County; repealing chapter 67-1890, Laws of Florida, relating to the levying of special taxes for road improvements in the unincorporated areas of Pasco County by petition or by the board of county commissioners' initiation; providing an effective date.

—a companion measure, was substituted for **SB 1518** and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **HB 2319** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motion by Senator Latvala, by two-thirds vote—

HB 2321—A bill to be entitled An act relating to Pasco County; repealing chapter 69-1458, Laws of Florida, authorizing the creation of streetlighting districts by petition and the levying of a special tax to pay for same; providing an effective date.

—a companion measure, was substituted for **SB 1652** and by two-thirds vote read the second time by title. On motion by Senator Latvala, by two-thirds vote **HB 2321** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 1740—A bill to be entitled An act relating to Volusia County; repealing ch. 27949, Laws of Florida, 1951, relating to the West Volusia Hospital District; providing for the property, assets, records, equipment, obligations, and liabilities of the district to be transferred to the West Volusia Hospital Authority; providing an effective date.

—was read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **SB 1740** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 2970—A bill to be entitled An act relating to the Town of Lady Lake; providing for the issuance of a special alcoholic beverage license to an entity operating within the commercial district of a retirement community within the Town of Lady Lake; providing restrictions; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **SB 2970** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 2974—A bill to be entitled An act relating to the Sebring Airport Authority, Highlands County; authorizing the authority to contract with other governmental entities and operate airports, airfields, and related facilities and services; providing an effective date.

—was read the second time by title.

Senator Dantzler moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 3 of chapter 67-2070, Laws of Florida, is amended to read:

Section 3. *(a)* The Sebring Airport Authority shall exercise its powers and jurisdiction over the property now known as "Sebring Air Terminal" and/or "Sebring Industrial Air Park," as follows:

The West Half (W1/2) of Section 4; All of Section 5, less and except that portion of the North Half (N1/2) lying West of the canal and the Railroad right-of-way spur; the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section 6; All of Section 7, less and except that portion of the West Half (W1/2) lying northerly of State Road No. 623 and West of the canal; All of Section 8; the West Half (W1/2) of Section 9; and that part of Section 18 lying North and West of the airport access road, less and except the following land deeded to the Humane Society generally described as being a 10-acre tract lying adjacent to the westerly boundary of the Hendricks Field access road and adjacent to and South of the north boundary of Section 18, Township 35 South, Range 30 East, more particularly described as follows: Commencing as a point of beginning at the intersection of the westerly boundary of Hendricks Field access road (said road being 100 feet in width, being 50 feet on either side of said center line) with the North boundary of Section 18, Township 35 South, Range 30 East, Highlands County, Florida, thence South 89°01'45" West along the North boundary of Section 18 a distance of 505.70 feet to a point, thence South 01°54'30" East a distance of 908.84 feet to a point, thence North 88°05'30" East a distance of 500.00 feet to a point on the westerly boundary of Hendricks Field access road, thence North 01°54'30" West along the westerly boundary of the Hendricks Field access road a distance of 718.68 feet to a point of curve, thence along a curve to the right having a radius of 2,914.79 feet an arc distance of 181.32 feet to the point of beginning.

All of the above described land lying in Township 35 South, Range 30 East, Highlands County, Florida.

All of that property now owned by the city of Sebring and known as Sebring Air Terminal shall be gratuitously transferred and conveyed to the Sebring Airport Authority, subject to any reservations or restrictions of record or existing leases, and subject to the restriction that none of said property may be sold at any time without the consent of the City of Sebring.

(b) The Sebring Airport Authority is authorized to exercise its powers over properties in addition to the Sebring Regional Airport and Industrial Park so long as they are exercised pursuant to contracts with other governmental entities for the operation and supervision of other airports, airfields, and related facilities.

Section 2. Paragraph (n) is added to section 6 of chapter 67-2070, Laws of Florida, as amended by chapter 89-484, Laws of Florida, to read:

Section 6. The Sebring Airport Authority is hereby authorized and empowered:

(n) To contract with other governmental entities to operate airports, airfields, and other related facilities and services, including providing all personnel, tools, equipment, supervision, and other materials and services required therefor.

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the Sebring Airport Authority, Highlands County; amending chapter 67-2070, Laws of Florida, as amended; allowing the authority to contract with and provide services to other governmental entities at other airports, airfields, and related facilities; providing an effective date.

WHEREAS, the Sebring Airport Authority owns and operates a Regional Airport and Industrial Park, and

WHEREAS, the Sebring Airport Authority may have opportunities from time to time to contract with other governmental entities to operate other airports, airfields, and related facilities, NOW, THEREFORE,

On motion by Senator Dantzler, by two-thirds vote **SB 2974** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 2984—A bill to be entitled An act relating to the South Lake County Hospital District in Lake County; amending chapter 88-466, Laws of Florida; revising provisions relating to members and officers of the South Lake County Hospital District Board of Trustees; revising powers of the district board of trustees; authorizing the levy of ad valorem taxes to pay for principal of and interests on promissory notes and mortgages, and to pay for the acquisition, construction, maintenance, operation, equipment, and administration of facilities owned, leased, or operated by specified not-for-profit corporations; reducing the maximum tax levy of 1 mill for operations and 1 mill for ambulance and hospital emergency room services into a total maximum tax levy of 1 mill for operation and ambulance and emergency room services; extending the current rate of assessment through the year 1998; restricting the rate of assessment to 1 mill beginning with the tax year 1999; providing severability; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendments which were adopted:

Amendment 1—On page 1, line 23, after the semicolon (;) insert: providing that requirements governing the transfer of control of hospitals or health facilities shall not apply to specified healthcare facilities or business ventures;

Amendment 2—On page 2, line 18, through page 4, line 10, strike all of said lines and insert:

(2)(a) Except as provided in paragraph (b), the board shall consist of 11 members, all of whom must reside within the district and must be appointed by the Governor, subject to confirmation by the Senate, for terms of 4 years each.

(b) Each member of the board serving when this act takes effect may continue in office as a member of the board until the expiration of his current term.

(c) Any vacancy on the board must be filled in accordance with paragraph (a).

(d) If a member's term expires and a successor has

Amendment 3—On page 6, strike all of lines 19 and 20 and insert:

(f) To organize a staff of physicians and dentists and give, grant, or

Amendment 4—In title, on page 1, strike all of lines 4-8 and insert: chapter 88-466, Laws of Florida; authorizing the levy of ad

On motion by Senator Johnson, by two-thirds vote **SB 2984** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 2990—A bill to be entitled An act relating to the Gainesville-Alachua County Regional Airport Authority; amending chapter 86-469, Laws of Florida, as amended; changing the membership, terms, organization, and quorum of the authority; eliminating annual reporting requirements; providing for the privatization of airport operations; removing budget approval by the city commission; deleting obsolete provisions; affirming that the City of Gainesville has no power to operate or maintain the airport and airport facilities; providing for the conveyance of title to the authority; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—On page 4, strike all of lines 10-21 and insert: *of the City of Gainesville and the Vice-Chairman of the Alachua County Commission, who shall serve ex officio as members of the authority.*

(3) INITIAL APPOINTMENTS; EXPIRATION OF TERMS.—Initial appointments shall be as follows:

(a) The ~~initial~~ members of the authority shall consist of:

1. *The Mayor of the City of Gainesville.* ~~All members of the preexisting authority; and~~

2. *The Vice-Chairman of the Alachua County Commission.*

3. *Two (2) members appointed by majority vote of the city commission.*

4. *One (1) member appointed by majority vote of the board of county commissioners.*

~~2. The four members separately~~

On motion by Senator Kirkpatrick, by two-thirds vote **SB 2990** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 2992—A bill to be entitled An act relating to Lee County; amending chapter 27676, Laws of Florida, 1951, as amended; expanding the boundaries of the Fort Myers Beach Fire Control District; providing a referendum.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **SB 2992** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3002—A bill to be entitled An act relating to Lee County; amending chapter 76-414, Laws of Florida, as amended; increasing the maximum rate of ad valorem taxes that may be levied to provide funds for the Bayshore Fire Protection and Rescue Service District; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **SB 3002** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3004—A bill to be entitled An act relating to Manatee County; amending section 15 of chapter 84-474, Laws of Florida, as amended; increasing the rates of special assessments that may be charged by the Whitfield Fire Control District; providing an effective date.

—was read the second time by title. On motion by Senator McKay, by two-thirds vote **SB 3004** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3006—A bill to be entitled An act relating to Collier County; establishing and organizing a municipality to be known and designated as the City of Pelican Bay in said county; defining territorial boundaries; providing for government, jurisdiction, elections, administrative code, procedure, powers, franchises, immunities, privileges, and means for exercising the same; prescribing the general powers to be exercised by said city; providing prohibitions; providing procedures for filling vacancies in office; providing for a city council, mayor, vice mayor, city manager, and city attorney; providing for initial election; providing for compensation; providing for ordinances; providing for budget adoption; providing for independent financial audits; providing for amendments to city charter; providing for referendum petitions; providing severability; providing for a referendum; providing a schedule; providing for county ordinances and services during transition period; providing effective dates.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **SB 3006** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3020—A bill to be entitled An act relating to the Braden River Fire Control and Rescue District, Manatee County; amending chapter 85-454, Laws of Florida, as amended; amending the description of lands to be incorporated within the district; amending provisions relating to the authority to levy special assessments; amending provisions relating to the impact fees levied by the Braden River Fire Control and Rescue District; providing an effective date.

—was read the second time by title. On motion by Senator McKay, by two-thirds vote **SB 3020** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3024—A bill to be entitled An act relating to Volusia County; providing for legislative intent; providing uniform filing dates and uniform election dates for municipal elections; providing for terms of office; providing for correspondence of terms of municipal office to the common dates provided in this act; providing that the general law for absentee ballots shall apply to all absentee ballots in municipal elections; providing for exemptions; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1—On page 4, strike all of lines 3 and 4 and insert: an ordinance declaring its exemption within 60 days after the effective date of this act or within 60 days after the effective date of its charter. Also the governing body of any

Amendment 2—On page 4, line 11, after "1995" insert: , or upon becoming a law, whichever occurs later

On motion by Senator Burt, by two-thirds vote **SB 3024** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3026—A bill to be entitled An act relating to Lee County; amending chapter 76-411, Laws of Florida, as amended; expanding the boundaries of the San Carlos Park Fire Protection and Rescue Service District; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **SB 3026** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3028—A bill to be entitled An act relating to Matlacha/Pine Island Fire Control District; annexing Galt Island Subdivision into the district; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **SB 3028** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3030—A bill to be entitled An act relating to Monroe County; authorizing the school board to deposit proceeds from the sale of real property into an interest-bearing account and to use the interest to fund certain school transportation needs; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 3030** to conform the bill to **HB 1301**.

Pending further consideration of **SB 3030** as amended, on motion by Senator Jones, by two-thirds vote **HB 1301** was withdrawn from the Committees on Education; and Rules and Calendar.

On motion by Senator Jones—

HB 1301—A bill to be entitled An act relating to Monroe County; authorizing the school board to deposit proceeds from the sale of real property into an interest-bearing account and to use the interest to fund certain school transportation needs; providing an effective date.

—a companion measure, was substituted for **SB 3030** and read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 1301** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3038—A bill to be entitled An act relating to the Lee County Mosquito Control District; amending chapter 67-1630, Laws of Florida; defining boundaries of the district; providing for division of the district into areas; providing for salary of board members; providing for budget hearings and tax levy made and adopted in accordance with general law; revising qualifications of a director; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote **SB 3038** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3040—A bill to be entitled An act relating to the Canaveral Port District, Brevard County; amending chapter 28922, Laws of Florida, 1953, as amended, which created and established the Canaveral Port District; designating the Canaveral Port District Authority as a political subdivision of the state; increasing the salary of each port commissioner effective upon approval by the Board of Commissioners; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **SB 3040** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3048—A bill to be entitled An act relating to Lee County; creating the "Town of Fort Myers Beach charter"; providing for the corporate name and purpose of the charter; establishing territorial boundaries of the municipality and authorizing annexations; providing powers of the municipality and of certain officers; providing for election of a town council, including the mayor and vice mayor, and providing for qualifications, powers, and duties of its membership, and a procedure for establishing their compensation and expense reimbursement; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; requiring independent financial audit; providing for council meetings, rules, recordkeeping, and voting at meetings; providing for nominations, elections, and terms of office of the council; providing for a town manager, town clerk, and town attorney and powers and duties of each; authorizing establishment of administrative departments; providing definitions; providing procedures for adoption of ordinances and resolutions, and for handling finances; establishing a fiscal year and annual budgets; providing procedures for initiative and referendum; providing for charter amendments and review; providing for severability; providing for transition, including initial election and terms, date and creation and establishment of the municipality, payment of certain revenues, and transitional comprehensive plan and land development regulations; entitling the town to state shared and local option gas tax revenues; providing for contractual services and facilities; eliminating transition elements; providing for services of independent special districts; providing for credit for special district taxes in qualifying for state revenue sharing; providing for a referendum; providing effective dates.

—was read the second time by title.

Senator Dudley moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. The "Town of Fort Myers Beach Charter" is created to read:

ARTICLE I: CORPORATE NAME; PURPOSE OF THE CHARTER

Section 1.01 Town of Fort Myers Beach.—The municipality hereby established shall be known as the Town of Fort Myers Beach, Florida.

Section 1.02 Purpose of the charter.—This charter is ordained and established by the people of the Town of Fort Myers Beach, Florida, to promote the general welfare and common good of the community by providing the framework for a municipal corporation to exercise municipal home rule powers under the Constitution and laws of the State of Florida.

ARTICLE II: TERRITORIAL BOUNDARIES

Section 2.01 Boundaries of the Town of Fort Myers Beach.—The territorial boundaries of the Town of Fort Myers Beach upon the date of incorporation shall include the following areas situated in the County of Lee, State of Florida:

A corporate limit lying offshore from Estero Island, which line is described as follows: all that part of Lee County that is located and situated within Estero Island, including a corporate limit line offshore 1,000 feet in the Gulf of Mexico and 1,000 feet in the inland bays, and parallel with the shore line of said Estero Island, excluding all of San Carlos Island, Black Island and, structures exclusively attached thereto.

Section 2.02 Extension of the corporate limits; annexation.—The corporate limits of the Town of Fort Myers Beach may be revised as provided by general law.

ARTICLE III: GENERAL POWERS OF THE MUNICIPALITY

Section 3.01 All powers possible.—The Town of Fort Myers Beach shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The powers of the Town of Fort Myers Beach shall be construed liberally in favor of the municipality, limited only by the Constitution, general law, and specific limitations contained herein.

Section 3.02 Joint exercise of powers.—The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation by contract or otherwise, with any one or more states, counties, municipalities, or any agencies thereof, or the United States or any agency thereof.

ARTICLE IV: CHARTER OFFICERS

Section 4.01 Council members; elections.—

(a) There shall be a town council, hereinafter referred to as the council, with all legislative powers of the town vested therein, consisting of five council members, all of whom shall be elected from the town at-large, for the initial election. The council shall place the matter of a change in

the charter regarding at-large or precinct elections for council members to a vote of the electorate no later than 2 years after formation of the municipality with public hearings as to said matter as required under section 13.03 hereof.

(b) Council seats shall be designated as seats #1, #2, #3, #4, and #5. Candidates shall be required to seek election to a specific seat on the council.

(c) Each member of the council shall be a registered elector of the town and shall have resided within the corporate limits of the municipality for a minimum of 1 year prior to qualifying for election.

(d) The council are elected officials who are accountable to the citizens at regularly held elections and who are subject to recall as provided by law. The citizens, through these processes, have the opportunity to elect, reelect, or dismiss their elected officials whose promise of performance or actual performance in office best reflects the policies which the citizens desire to implement in the government of the town.

(e) Policymaking is the sole prerogative of the elected council. Administrative staff, whether hired or appointed under terms of this charter, is subordinate to the elected officials, whose power derives from the consent of, and election by, the citizens of the town.

(f) Except as otherwise prescribed herein or provided by law, legislative and police powers of the town shall be vested in the council, including the establishment of boards, commissions, and committees. The council shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the municipality by law.

Section 4.02 Mayor.—At the first regularly scheduled meeting following the town's regular election, the council, by majority vote, shall elect from its membership a mayor. The mayor shall serve as chairperson during meetings of the council and shall serve as the head of municipal government for the purpose of execution of legal documents as required by ordinance. The mayor shall also serve as the ceremonial head of the town.

Section 4.03 Vice mayor.—At the first regularly scheduled meeting following the town's regular election, the council, by a majority vote, shall elect from among its membership a vice mayor who shall serve as mayor during the absence or disability of the mayor and, if a vacancy occurs, shall become interim mayor pursuant to section 4.08 of this charter.

Section 4.04 Prohibitions.—

(a) Neither the council, nor any individual member of the council, shall in any manner dictate the employment or removal of any employee other than the town manager and town attorney. No individual member of the council shall give orders to any officer or employee of the town. Recommendations for the improvements in the town government operations shall come through the town manager, but each member of the council shall be free to discuss or recommend improvements to the town manager, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations.

(b) No present or former elected town official shall hold any compensated appointive office or employment with the town until 1 year after the expiration of the official's elected term.

Section 4.05 Compensation.—

(a) An ordinance establishing, increasing, or decreasing compensation of the council may be adopted at any time; however, in no event shall any establishment of compensation or any increase in compensation become effective prior to the first day of the first month following the first regular election of the town subsequent to the adoption of such ordinance.

(b) The council may provide for reimbursement of actual expenses incurred by its members while performing their official duties.

Section 4.06 Vacancies.—The office of a member of the council shall become vacant upon the member's inability to fulfill the duties of the office, resignation, or removal from office as authorized by law or this charter.

Section 4.07 Forfeiture of office.—A member of the council may forfeit the office, if the member:

(a) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by law;

(b) Violates any express prohibition of this charter;

(c) Is convicted of a felony or criminal misdemeanor which misdemeanor involves the office of town council; or

(d) Misses three consecutive regularly scheduled council meetings.

If any of these events should occur, a hearing shall automatically be conducted at the next regularly scheduled council meeting, and the member may be declared to have forfeited office by majority vote of the council.

Section 4.08 Filling of vacancies.—A vacancy on the council, except for the position of mayor, shall be filled by appointment by majority vote of the council members remaining, and said appointment shall be effective until a successor is chosen at the next regular election. In the event that a majority of the members of the council are removed by death, disability, law, or forfeiture of office, the governor shall appoint an interim council that shall call a special election to be held within 45 days following the occurrence of the vacancies. In the event that the mayor becomes unable to fulfill the duties of his office, ceases to be qualified, or is removed from office as provided by law or this charter, the vice mayor of the council shall assume the full powers and duties of the mayor. The vice mayor of the council shall temporarily relinquish his office as council member and shall assume the office of mayor for the remainder of the unexpired term. The council vacancy thus created shall be filled by an interim appointment under the provisions of this charter, to be effective only until such time as the mayor resumes his office or until the expiration of the term of the office, whichever occurs first.

Section 4.09 Judge of qualifications.—The council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths, and require the production of evidence. A council member charged with conduct constituting grounds for forfeiture of this office shall be notified by the town clerk by certified mail and shall be entitled to a public hearing at the next regularly scheduled meeting of the council as outlined in section 4.07 of this charter. Notice of such hearing shall be published in one or more newspapers of general circulation in the town at least 1 week in advance of the hearing.

Section 4.10 Independent financial audit.—The council shall provide for an independent annual financial audit of all town accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or in any of its officers. Residency in the town shall not be construed as a prohibited interest.

Section 4.11 Meetings.—The council shall meet regularly at least eight times per year and shall meet no less often than bimonthly at such times and locations within the boundaries of the town as the council may prescribe. Special meetings may be held on the call of the mayor or the town manager and, whenever practical, upon no less than a 24-hour notice to each member and the public. Action taken at a special meeting shall be limited to the purpose for which the special meeting is called. A special meeting may be held outside the town with proper notice. All meetings shall be public and shall be scheduled to commence no earlier than 7 a.m. nor later than 10 p.m.

Section 4.12 Rules and journal.—The council shall determine its own rules and order of business and shall provide for keeping a journal and minutes of its proceedings. The journal and minutes shall be public records.

Section 4.13 Voting; quorum.—Roll call voting shall be required for ordinances or upon the specific request of a council member and shall be recorded in the minutes; otherwise, voting shall be by ayes and nays. Three members of the council shall constitute a quorum. No action of the council shall be valid or binding unless adopted by the affirmative vote of a majority of the council. All council members in attendance shall vote on all council actions, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest as defined under general law.

ARTICLE V: NOMINATIONS AND ELECTIONS; TERMS OF OFFICE

Section 5.01 Elections.—The regular election of the members of the council shall be held on the first Tuesday after the first Monday in November.

Section 5.02 Commencement of term.—The terms of members of the council shall begin on January 1st of the year following the election.

Section 5.03 Terms of office.—The terms for all council seats, #1, #2, #3, #4, and #5, shall be for 3 years, except during the transition period as outlined in section 15.02(e) of this charter. No member of the council shall serve for more than two consecutive 3-year terms. After 1 year out of office, a candidate may requalify for any vacant seat.

Section 5.04 Qualified electors.—Any person who is a resident of the town, who has qualified as an elector of the state, and who registers in the manner prescribed by law, shall be an elector of this town.

Section 5.05 Adoption of election procedures.—The council, by ordinance, shall adopt such election procedures as are necessary.

Section 5.06 Nonpartisan elections.—All elections for officers of the town shall be conducted on a nonpartisan basis without any designation of political party affiliation.

Section 5.07 Multiple candidates.—In the event that multiple candidates qualify for election to a single office, that candidate receiving a majority of votes cast shall be elected. If no candidate receives a majority, then the two candidates receiving the most votes shall have a runoff election to decide the winner of the election for that office. If required, the runoff election shall be held on the first Tuesday in December.

Section 5.08 Recall.—The qualified electors of the municipality shall have the power to recall and to remove any elected official of the town as prescribed by general law.

ARTICLE VI: TOWN MANAGER

Section 6.01 Appointment and qualifications.—The council shall appoint a town manager for an indefinite term and fix compensation. The town manager shall be appointed primarily on the basis of executive and administrative qualifications.

Section 6.02 Removal.—The council may remove the town manager for any reason by affirmative vote of the council. If the vote is less than unanimous by all council members, the town manager may, within 7 days of the dismissal motion by council, submit to the mayor a written request for reconsideration. Any action taken by the council at the reconsideration hearing shall be final.

Section 6.03 Powers and duties.—The town manager shall be the chief administrative officer of the town and shall implement and administer all ordinances, resolutions, and policies adopted by the council and shall perform such other duties as may be required by the council or law. The town manager shall be responsible to the council and shall have the following powers and duties:

(a) To hire or fill existing positions and, when the town manager deems it necessary for the good of the town service, suspend or remove town employees, except as otherwise provided by law or this charter.

(b) To direct and supervise the administration of all employees, departments, and agencies of the town, except as otherwise provided by this charter or by law.

(c) To attend all council meetings and shall have the right to take part in discussion but may not vote.

(d) To ensure that all laws, provisions of this charter, and acts of the council, subject to enforcement by the town manager or by officers subject to the town manager's direction and supervision, are faithfully executed.

(e) To submit to the council and make available to the public a complete report on the administrative activities of the town as of the end of each fiscal year.

(f) To make such other reports as the council may require concerning the operation of town departments, offices, and agencies subject to the town manager's direction and supervision.

(g) To keep the council fully advised as to the condition and future needs of the town and to make written recommendations to the council concerning the affairs of the town.

(h) To perform the duties of town clerk in addition to the duties of town manager during any period of time so appointed by the council.

(i) To perform such other duties as are specified in this charter or as may from time to time be assigned by the council.

ARTICLE VII: TOWN CLERK

Section 7.01 There may be a town clerk who shall be appointed by the town manager with the consent of the council. The town clerk shall serve at the pleasure of the town manager and shall:

(a) Give notice of council meetings to its members and the public.

(b) Keep the journal and minutes of the proceedings of the council and its committees, which shall be public records.

(c) Authenticate by signature and record in full in books kept for that purpose all ordinances and resolutions passed by the council.

(d) Be the custodian of the town seal.

(e) Have the power to administer oaths.

(f) Perform such other duties as may be assigned by the town manager.

ARTICLE VIII: TOWN ATTORNEY

Section 8.01 There shall be a town attorney appointed by the council, who may represent the town in all legal proceedings and shall perform all other duties assigned by the council. The council may remove the town attorney for any reason by motion requiring three affirmative votes.

ARTICLE IX: ADMINISTRATIVE DEPARTMENTS

Section 9.01 Establishment of additional departments.—The council may establish such other departments as it determines necessary for the efficient administration and operation of the town; such departments, offices, or agencies shall be established by ordinance.

ARTICLE X: ORDINANCES AND RESOLUTIONS

Section 10.01 Definition of ordinances and resolutions.—As used in this charter, the following words and terms shall have the following meanings unless some other meaning is plainly indicated:

(a) "Ordinance" means an official legislative action of the council, which action is a regulation of a general and permanent nature and enforceable as a local law.

(b) "Resolution" means an expression of the council concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the town.

Section 10.02 Adoption of ordinances.—Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject and matters properly connected therewith, which shall be clearly expressed in its title. The enacting clause for an ordinance shall be: "IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..."

(a) An ordinance may be introduced by any member at any regular or special meeting of the council. A proposed ordinance may be read by title, or in full, on at least two separate council meeting days and shall, at least 10 days prior to adoption, be noticed once in a newspaper of general circulation in the town. The notice of proposed enactment shall state the date, time, and place of the meeting; the title of a proposed ordinance; and the place or places within the town where such proposed ordinance may be inspected by the public.

(b) To meet a public emergency affecting life, health, property, or the public peace, the council, by a two-thirds vote of those present as required by general law, may adopt an emergency ordinance without complying with the requirements of notice expressed in the foregoing paragraph. An emergency ordinance may not levy taxes; grant, renew, or extend a franchise; set service or user charges for any municipal services; or authorize the borrowing of money. An emergency ordinance shall become effective upon adoption and automatically stand repealed as of the 61st day following the date on which it was adopted. This shall not prevent reenactment of such an ordinance under regular procedures.

(c) Ordinances which rezone specific parcels of private real property or which substantially change permitted use categories shall be enacted pursuant to general law.

(d) An ordinance shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the ordinance shall be available in the town hall.

Section 10.03 Adoption of resolutions.—Every proposed resolution shall be introduced in writing and in the form required for final adoption. No resolution shall contain more than one subject which shall be clearly expressed in its title. The clause which shall be used for all resolutions approved by the council shall be: "IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS..." A resolution may be introduced by any member at any regular or special meeting of the council. A resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the town clerk. A copy of the resolution shall be available in the town hall.

ARTICLE XI: FINANCIAL PROCEDURES

Section 11.01 Fiscal year.—The fiscal year of the town shall begin on the first day of October and end on the last day of September.

Section 11.02 Submission of budget and budget message.—On or before the 15th day of July of each year, the town manager shall submit to the council a budget in accordance with state law. It shall outline the financial policies of the town for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policy, including any changes in budgetary accounting methods from the current year expenditures and revenues together with the reasons for such changes; summarize the town's debt position; and include such other material as the town manager deems necessary.

Section 11.03 Council action on the budget.—

(a) The council shall adopt the budget by resolution on or before the 30th day of September of each year.

(b) Unless authorized by the electors of the town at a duly held referendum election, the council shall not authorize or allow to be authorized the issuance of revenue bonds or enter into lease-purchase contracts or any other unfunded multiyear contracts all for the purchase of real property or the construction of any capital improvement, the repayment of which extends in excess of 36 months, unless mandated by state or federal governing agencies.

Section 11.04 Public records.—Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable locations in the town.

Section 11.05 Budget amendments.—

(a) SUPPLEMENTAL APPROPRIATIONS.—If, during the fiscal year, the town manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the council, by resolution, may make supplemental appropriations for the year up to the amount of such excess, so long as a fiscally responsible reserve is maintained.

(b) EMERGENCY APPROPRIATIONS.—To meet a public emergency affecting life, health, property, or the public peace, the council, by resolution, may make emergency appropriations. To the extent that there are no unappropriated revenues to meet such appropriations, the council may by such emergency resolution authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals in any fiscal year shall be paid not later than the last day of the fiscal year succeeding that in which the emergency appropriations were made.

(c) REDUCTION OF APPROPRIATIONS.—If, during the fiscal year, it appears probable to the town manager that the revenues available will be insufficient to meet the amount appropriated, the town manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose may, by resolution, reduce one or more appropriations.

(d) TRANSFER OF APPROPRIATIONS.—At any time during the fiscal year, the town manager may transfer any unencumbered appropriations among programs within a department, office, agency or a program provided by interlocal agreement and, upon written request by the town manager, the council may by resolution transfer between funds any unencumbered appropriations from one department, office, agency or a program provided by interlocal agreement to another.

ARTICLE XII: INITIATIVE AND REFERENDUM

Section 12.01 Initiative and referendum.—At least 25 percent of the qualified electorate of the town shall have the power to petition the council to propose an ordinance or to require reconsideration of an adopted ordinance, and if the council fails to adopt such ordinance so proposed, or to repeal such adopted ordinance, without any change in substance, then the council shall place the proposed ordinance, or the repeal of the adopted ordinance, on the ballot at the next general election.

ARTICLE XIII: CHARTER AMENDMENTS

Section 13.01 Initiation by ordinance.—The council may, by ordinance, propose amendments to any or all of this charter to be submitted to the electors, as provided by general law.

Section 13.02 Initiation by petition.—The electors of the town may propose amendments to this charter by petition to be submitted to the council to be placed before the electors, as provided by general law.

Section 13.03 Charter review.—The charter will be reviewed no later than 3 years after approval, then no later than 5 years after the initial charter review, and thereafter at least every 10 years. A five-member charter review commission shall be appointed and funded by the council. The charter review commission shall be appointed at least 6 months before the next scheduled election and complete its work and present any recommendations for change no later than 60 days before the election. The council shall hold a minimum of two public hearings on the proposed changes to the charter prior to placing the proposed changes on the scheduled election ballot.

ARTICLE XIV: SEVERABILITY

Section 14.01 Invalidity of character provision or application.—If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of this charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

ARTICLE XV: TRANSITION

Section 15.01 Referendum election.—At the referendum election called for by subsection (1) of section 3 of this act, the following question shall be placed upon the ballot:

"SHALL CHAPTER 95- , LAWS OF FLORIDA, CREATING THE TOWN OF FORT MYERS BEACH AND PROVIDING ITS CHARTER BE APPROVED?"

In the event this question is answered affirmatively by a majority of voters casting ballots in the referendum, the provisions of this charter shall take effect as provided herein.

Section 15.02 Initial election of council.—

(a) DATES.—Following the adoption of this charter, the Lee County Commission shall call a special election to be held on November 7, 1995, for the election of five council members. Any necessary runoff election shall be held in accordance with section 5.07 of this charter.

(b) QUALIFYING PERIOD.—Between noon on September 18, 1995, and noon on September 25, 1995, any individual who wishes to run for one of the five initial seats on the council shall qualify as a candidate with the Lee County Supervisor of Elections in accordance with the provisions of this charter and general law.

(c) CERTIFICATION OF ELECTION RESULTS.—For the initial election, the Lee County Commission shall appoint a canvassing board which shall certify the results of the election.

(d) INDUCTION INTO OFFICE.—Those candidates who are elected on November 7, 1995, shall take office at the initial council meeting, which shall be held at 10 a.m. on November 14, 1995, at the Bay Oaks Community Center, Fort Myers Beach, Florida.

(e) TRANSITIONAL TERMS OF OFFICE.—Seats #1 and #2 shall initially be for a 2-year term. Seats #3, #4, and #5 shall be for a 3-year term. Thereafter, all terms shall be for 3 years, on a staggered basis.

Section 15.03 Creation and establishment of the Town of Fort Myers Beach.—For the purpose of compliance with section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the Town of Fort Myers Beach is hereby created and established effective December 31, 1995.

Section 15.04 Early assumption of duties.—The initial council shall have the authority and power to enter into contracts, arrange for the hiring of interim legal counsel, begin recruiting applicants for the position of town manager, provide for necessary town offices and facilities, and do such other things as it deems necessary and appropriate for the town to become operational on December 31, 1995.

Section 15.05 First-year expenses.—The council, in order to provide moneys for the expenses and support of the town, shall have the power to borrow money necessary for the operation of municipal government until such time as a budget is adopted and revenues are raised in accordance with the provisions of this charter.

Section 15.06 Transitional ordinances and resolutions.—The council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 90 days after the first council meeting may be passed as emergency ordinances as provided in section 10.02, except these transitional ordinances shall be effective for no longer than 90 days after adoption and, thereafter, may be readopted, renewed, or otherwise continued only in the manner normally prescribed for ordinances.

Section 15.07 Transitional comprehensive plan.—Until such time as the town adopts a comprehensive plan, the Lee County Comprehensive Plan, as the same exists on the day the town commences corporate existence, shall remain in effect as the town transitional comprehensive plan. However, all planning functions, duties, and authority shall thereafter be vested in the council, which shall be deemed the local planning agency until the council establishes a separate local planning agency.

Section 15.08 Transitional land development regulations.—To implement the transitional comprehensive plan when adopted, the town shall, in accordance with the procedures required by Florida law, adopt ordinances providing for land development regulations within the corporate limits. Until the town adopts the ordinances:

(a) The comprehensive land use plan, land development regulations of the County of Lee, as the same exists on the date the town commences corporate existence, shall remain in effect as the transitional land development regulations and comprehensive land use plan of the town.

(b) All powers and duties of the Lee County Department of Community Development, Lee County hearing examiner, and County Commission of Lee County, Florida, as set forth in these transitional land development regulations, shall be vested in the town council until such time as the town council delegates all or a portion thereof to another entity.

(c) The council is fully empowered to amend, supersede, enforce, or repeal the transitional land development regulations, or any portion thereof, by ordinance.

(d) Subsequent to the commencement of the town's corporate existence, no amendment of the comprehensive plan or land development regulations enacted by the Lee County Commission shall be deemed an amendment of the town's transitional comprehensive plan or land development regulations or otherwise take effect within the town's municipal boundaries.

Section 15.09 State-shared revenues.—The Town of Fort Myers Beach shall be entitled to participate in all shared revenue programs of the State of Florida effective immediately on the date of incorporation. The provisions of subsection 218.23(1), Florida Statutes, shall be waived for the purpose of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year 1996-1997. For purposes of meeting provisions of subsection 218.23(1), Florida Statutes, relating to ad valorem taxation, the millage levied by special districts within the corporate limits of the town may be used for an indefinite period of time. Initial population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the Bureau be unable to provide an appropriate population estimate, the Lee County Department of Community Development shall provide an appropriate estimate.

Section 15.10 Local Option Gas Taxes.—Notwithstanding the requirements of s. 336.025, Florida Statutes, to the contrary, The Town of Ft. Myers Beach shall be entitled to receive local option gas tax revenues beginning October 1, 1996. The said revenues shall be distributed in accordance with s. 336.025, Florida Statutes.

Section 15.11 Contractual services and facilities.—Services for fire, police, public works, parks and recreation, planning and zoning, building inspection, development reviews, animal control, and solid waste collection may be supplied by contract between the town and county, special districts, municipalities, or private enterprise until such time as the town council establishes such independent services. Facilities for housing the newly formed municipal operations may be rented or leased until the town is in the position to obtain its own facilities.

Section 15.12 Elimination of transition elements from the charter.—Upon completion of the transition phase as contained herein, those sections of the charter relating to transition shall be eliminated from the charter.

ARTICLE XVI: INDEPENDENT SPECIAL DISTRICTS

Section 16.01 It is recognized that certain services within the municipal boundaries are provided by independent special districts created by special acts of the Florida Legislature. The municipality is empowered to merge the functions of said districts with those of the municipality only upon dissolution of the special district, or upon affirmative vote of a majority of the town council and an affirmative vote of the majority of the council or board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation. It is recognized that certain planning and interlocal agreements may be necessary between the town and such districts and the town council shall endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the town council desires to supplement or duplicate services determined to be inadequate, the council is fully empowered to do so.

ARTICLE XVII: REVENUE-SHARING

Section 17.01 It is recognized that the services provided by independent districts within the municipal boundaries provide essential services which would customarily be provided by municipal government. It is therefore declared that the Town of Fort Myers Beach shall be eligible to participate in revenue-sharing beyond the minimum entitlement in any fiscal year, provided that the town and all independent special districts created under special law, combined, levy ad valorem taxes in amounts as required by section 218.23, Florida Statutes.

Section 2. The "City of Pelican Bay Charter" is created to read:

CHARTER OF THE CITY OF PELICAN BAY
ARTICLE I - POWERS

Section 1.01 Powers of the City of Pelican Bay.—The city known as Pelican Bay shall have all powers possible for a city to have under the Constitution and laws of the state as fully and completely as though they were specifically enumerated in this charter unless prohibited by or contrary to the provisions of this charter; and in addition to the foregoing and not by way of limitation, the city shall have the following powers:

(1) To organize and regulate its internal affairs and to establish, alter, abolish, and terminate, such termination to be only for cause, offices, positions, and employments, including citizen board positions, and to define functions, powers, and duties, and fix their term, tenure, and compensation.

(2) To adopt, amend, and repeal such ordinances, resolutions, and codes as may be required for the good government of the city, including local police ordinances carrying penalties, business regulations, traffic regulations, and ordinances relating to and regulating the sale of alcoholic beverages.

(3) To prepare and adopt supplemental zoning and land use regulations for the city, including provision for environmental protection, pollution control, community facilities, and all other related activities, subject to the Development of Regional Impact for Pelican Bay, as amended, the Pelican Bay Development Order, as amended, and the provisions of section 7.03 of this charter.

(4) To sue and be sued; to have a corporate seal; to contract and be contracted with; to buy, receive by gift or devise, sell, lease, hold, and dispose of real and personal property for any public purpose; to have the

power of eminent domain and to acquire by condemnation or otherwise all private lands and riparian and other rights necessary for public purposes and improvements.

(5) To raise funds by taxation and to make such levy upon the taxable property in the City of Pelican Bay as will provide funds necessary for the operation of the city and for such other purposes as may be provided in general law, pursuant to the general laws of Florida.

(6) To appropriate and expend money for any public purpose including, but not limited to, funds for publicizing or advertising the City of Pelican Bay.

(7) To borrow money for public purposes.

(8) To levy special or local assessments for local improvements and to hold liens for public improvements.

(9) To license, and tax as authorized by general law, privileges, businesses, occupations, and professions carried on and engaged in within the corporate limits of the city and to classify and define such privileges, businesses, occupations, and professions for such purposes.

(10) To exercise the right of eminent domain in accordance with part IV of chapter 166, Florida Statutes. For the purpose of this section, the powers of Collier County with respect to eminent domain for parks, playgrounds, recreational centers, or other recreational purposes under chapter 127, Florida Statutes, are expressly prohibited within the City of Pelican Bay, except upon the affirmative vote of at least three fourths of the members of the Pelican Bay city council.

(11) To do and perform all other acts as seem necessary and best adapted to the improvement and general interest of the city, and the protection of the health, life, and property of the city and its inhabitants, not contrary to the laws of Florida.

Section 1.02 Construction of powers.—

(1) The powers of the city under this charter shall be construed liberally in favor of the city.

(2) The charter of the city may be revoked in accordance with the dissolution procedure of chapter 165, Florida Statutes.

Section 1.03 Intergovernmental relations.—The city may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more other municipalities, state or local governments or civil divisions or agencies thereof, or the United States government or any agency thereof.

Section 1.04 Elections.—All elections required under any article or section of this charter, as adopted and subsequently amended, shall be conducted in accordance with the provisions of the Florida Election Code, as amended.

Section 1.05 Administrative code.—An administrative code shall be adopted by the city council and amended as necessary, defining the departmental organization of the city and appropriate rules and regulations for the conduct of such departments. The administrative code, as adopted, shall describe the line of authority and responsibility of the various departments, as well as the various relationships between line and staff departments. In addition, a graphic table of organization shall be included in said administrative code, which shall be adopted by ordinance.

ARTICLE II - CORPORATE LIMITS

Section 2.01 Description of corporate limits.—The following shall constitute the corporate limits of the City of Pelican Bay:

A tract of land being in portions of Sections 32 and 33, Township 48 South, Range 25 East; together with portions of Sections 4, 5, 8 and 9, Township 49 South, Range 25 East, Collier County, Florida, and being more particularly described as follows:

Commencing at the Southeast (S.E.) corner of said section 33; thence South 89 degrees 59 minutes 50 seconds West along the South line of Section 33 a distance of 150.02 feet to a point on the West right-of-way line of U.S. 41 (State Road 45), said point also being the Point of Beginning; thence Southerly along the West right-of-way line of said U.S. 41 (State Road 45) the following courses: South 00 degrees 58 minutes 36 seconds East a distance of 2.49 feet; thence South 00 degrees 55 minutes 41 seconds East a distance of 3218.29 feet; thence South 01 degrees 00 minutes 29 seconds East a distance of 3218.56 feet; thence South 00 Degrees 59 minutes 03 seconds East a distance of 2626.21 feet; thence South 01 Degrees 00 Minutes 18 Seconds East a distance of 2555.75 feet to a point on the North right-of-way line of Pine Road as recorded in D.B. 50, P. 490, among the Public Records of said Collier County; thence departing said U.S. 41 (State Road 45) South 89 Degrees 09 Minutes 45 Seconds West along said North right-of-way line a distance of 2662.61 feet; thence South 00 Degrees 51 Minutes 44 Seconds East a distance of 70.00 feet to a point on the North line of Seagate Unit One as recorded in Plat Book 3, Page 85 among said Public Records; thence South 89 Degrees 09 Minutes 45 Seconds West along said North line of Seagate Unit One and the South line of said Section 9 a distance of 2496.67 feet to the Southwest corner of said Section 9; thence continue South 89 Degrees 09 Minutes 45 Seconds West a distance of 225 + or - feet to a Point on the Mean High Water Line established May 15, 1938; thence due West a distance of 2640 feet to a point in the Gulf of Mexico; thence in a general Northwesterly direction along an imaginary line running parallel to the Mean High Water Line of the Gulf of Mexico a distance of 15716 + or - feet to a point in the Gulf of Mexico; thence due East a distance of 2640 feet to the mean High Water Line; thence departing said Mean High Water Line South 80 Degrees 29 Minutes 30 Seconds East and along the Southerly line of Vanderbilt Beach Road (State Road 862) as recorded in D.B. 15, P. 121 among said Public Records a distance of 7385 + or - feet to a point on said West right-of-way line of U.S. 41 (State Road 45); thence South 00 Degrees 58 Minutes 36 Seconds East along said West right-of-way line a distance of 2574.36 feet to the point of beginning.

ARTICLE III - LEGISLATIVE

Section 3.01 City council; composition; qualifications of council.—

(1) There shall be a five-member city council elected from and representing the city at large.

(2) To qualify for office:

(a) Each individual seeking to qualify as a candidate for a seat on the council shall submit a written request that his or her name be placed upon the ballot for election and a statement that he or she is a bona fide candidate for such office. Such written request shall be submitted to the city manager or, for the initial election, to the Supervisor of Elections of Collier County, and shall be accompanied by a nonrefundable filing fee of $25.

(b) Each candidate for the city council shall be a qualified elector of the city.

(c) Each candidate for the city council shall have been a resident of the city for a minimum period of 1 year prior to qualifying for office.

(d) At the time of qualification, each candidate for the city council shall reside within the boundaries of the city. If elected, the council member shall maintain residency throughout his or her term of office in the city.

(3) The term of office for council shall be 4 years, except that, in order to provide for the staggering of terms, the initial term of office for the council members shall be as outlined in section 3.02.

(4) No person elected as council member shall be able to serve more than two consecutive terms as a council member. Each council member shall remain in office until his or her successor is elected and assumes the duties of the position. For the purposes of this subsection, a term of office shall be defined as any term of 2 years or longer, but not more than 4 years.

(5) At all elections for council, those persons elected shall take office once the certified results are presented to the council.

Section 3.02 Initial election.—

(1) The initial election for council following the referendum approving the creation of the city shall occur on Tuesday, November 7, 1995.

(2) At the initial election to be held under this charter, persons wishing to qualify for the office of council member shall submit a written request in accordance with section 3.01(2).

(a) Qualifying request forms shall be obtained from and returned to the Supervisor of Elections of Collier County.

(b) The qualifying period shall commence at noon on September 18, 1995, and shall end at noon on September 22, 1995.

(3) Instructions to voters for the initial council election shall be:

(a) To "Vote for Five" in the council races.

(b) No elector may cast more than one vote for any one candidate.

(4) Determination of winners shall be:

(a) In the council races, those five candidates receiving the highest number of votes shall be elected.

(b) Those council members elected at such initial election shall take office immediately upon certification of the results of said election by the Supervisor of Elections of Collier County.

(c) For purposes of the initial election, there will be no runoff election. Should two or more candidates receive the exact same number of votes and the tie vote needs to be broken, the winner for those offices will be determined by drawing lots as provided in s. 100.181, Florida Statutes.

(5) For the purpose of establishing staggered terms of office for members of the council:

(a) The three council members receiving the highest number of votes shall serve an initial term of 3 years with subsequent reelection for terms of 4 years to occur at the general election in even-numbered years commencing in 1998.

(b) The remaining two council members shall serve an initial term of 1 year with subsequent reelection to terms of 4 years to occur at the general election commencing in 1996.

(6) The expenses of the initial election shall be repaid by the city within 12 months after the election.

Section 3.03 Compensation.—

(1) An ordinance establishing, increasing, or decreasing compensation of the mayor or council may be adopted at any time; however, in no event shall any establishment of compensation or any increase in compensation become effective prior to the first day of the month following the first regular election of the city subsequent to the adoption of such ordinance.

(2) The council may provide for reimbursement of actual expenses incurred by its members while performing official duties.

Section 3.04 Mayor and vice mayor.—The council shall elect from among its members a mayor and a vice mayor. Election of the mayor and vice mayor shall be held every 2 years at the first regular council meeting after the city election. The mayor and vice mayor shall hold office until the first regular meeting after the next city election following election by the council

Section 3.05 Presiding officer; mayor; vice mayor.— The mayor shall preside at the meetings of the council and shall have a voice and vote in its proceedings. The mayor will be the liaison officer between the city council and the city manager and city attorney, except when the council is in session. The mayor's instructions to the city manager and city attorneys shall have the effect of a council decision except when disapproved by the city council in a regular or special session. The mayor shall be recognized as head of the city government and by the Governor for purposes of military law. The vice mayor shall, in the absence or disability of the mayor, have all the power and prerogative and perform the duties of the mayor.

Section 3.06 General powers and duties.—All legislative powers of the city shall be vested in the city council, which shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the city by law. The council may delegate to the city manager the power to execute contracts, deeds, and other documents approved by the council, and to represent the city in all agreements with other governmental entities or certifications to other governmental entities.

Section 3.07 Prohibitions.—

(1) No former elected city official shall hold any compensated appointive city office or employment until 2 years after the expiration of the term for which he or she was elected.

(2) No council member shall direct or request the appointment of any person to or their removal from office by the city manager or by any of his or her subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city except as provided in this charter. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the city manager and neither the council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any council member violating the provisions of this section shall be subject to recall as herein provided.

Section 3.08 Vacancies, forfeiture of office, filling of vacancies.—

(1) The office of council member shall become vacant upon death, incapacitation due to long-term illness, resignation, removal from office in any manner authorized by general law, or forfeiture of the council member's office.

(2) The council member shall forfeit office if he or she:

(a) Lacks at any time during the term of office any qualification for the office prescribed by this charter or by general law.

(b) Violates any standard of conduct or code of ethics established by general law for public officials; or

(c) Is absent from three consecutive regular council meetings without being excused by the council.

(3) A vacancy in the office of council member shall be filled as provided by general law, and provided as follows:

(a) If less than 28 months remain in the unexpired term of the council member, the council by a majority vote of the remaining members shall choose a successor to serve until a new council member is seated.

(b) If more than 28 months remain in the unexpired term of the council member, the council by a majority vote of the remaining members shall choose a successor to serve until the next city election at which time a successor shall be qualified to serve for the remainder of the unexpired term.

(4) In the event that at any time three or more vacancies occur on the council for whatever reason and by whatever cause, the Governor shall appoint interim council members to fill the vacancies, who shall serve until the next city election. Such election shall be conducted and the council organized in the same manner as the initial election of council members under this charter.

Section 3.09 City manager to serve as city clerk.—The city manager shall serve as clerk of the city and shall give notice of council meetings to its members and to the public and shall keep the journal of its proceedings, which shall be a public record.

Section 3.10 Procedure.—

(1) The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. The council shall not be required to meet during the month of July. Special meetings may be held on the call of the mayor or of a majority of the members and, whenever practicable, upon no less than 24 hours' notice to each member and the public. All meetings shall be public.

(2) The council shall determine its own rules and order of business and shall have a journal containing all minutes of meetings.

(3) Voting, on ordinances and resolutions, shall be by roll call and shall be recorded in the journal. A majority of the council shall constitute a quorum, but a smaller number may recess from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the city council. No action of the city council except as otherwise provided in this charter shall be valid or binding unless adopted by the affirmative vote of the majority of council members present and voting. All council members shall vote on all matters before the city council except on those matters on which the council member announces a conflict of interest.

Section 3.11 Ordinances in general.—The procedure for adoption of ordinances shall be as provided by general law.

Section 3.12 Emergency ordinances.—The council may by a four-fifths vote enact emergency ordinances without complying with the requirements of section 3.11. Every emergency ordinance except emer-

gency appropriations shall become effective immediately and shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency continues to exist, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Section 3.13 Budget adoption.—The council shall by ordinance adopt the annual budget pursuant to general law and section 1.01.

Section 3.14 Appropriation amendments during the fiscal year.—

(1) If during the fiscal year revenues in excess of those estimated in the budget are available for appropriation, the council may make supplemental appropriations for the year up to the amount of such excess.

(2) If at any time during the fiscal year it appears probable to the city manager that the revenue available will be insufficient to meet the amount appropriated, he shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may reduce one or more appropriations.

(3) No appropriations for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

(4) At any time during the fiscal year the city manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency and, upon written request by the city manager, the council may transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section 3.15 Authentication, recording, and disposition of charter amendments, ordinances and resolutions.—

(1) The mayor and the city manager shall authenticate by their signatures all ordinances and resolutions adopted by the council. In addition, when charter amendments have been approved by the electors, the mayor and the city manager shall authenticate by their signatures the charter amendment, such authentication to reflect the approval of the charter amendment by the electorate.

(2) The city manager shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the council. Ordinances shall be periodically codified. The city manager shall also maintain the city charter in current form and shall enter all charter amendments and send certified copies of amendments to the Secretary of State.

(3) The council shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this charter available to the people of the city for public inspection and available for purchase at a reasonable price.

Section 3.16 Codes of technical regulations.—The council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and such ordinance may amend the code. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(1) The requirements of section 3.15 for distribution and filing of copies of the ordinances shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance; and

(2) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the city manager pursuant to subsection (1) of section 3.15.

Section 3.17 Independent financial audit.—The council shall provide for an independent annual financial audit of all city accounts and may provide for more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the city government or in any of its officers. Residency in the city shall not be construed as a prohibited interest.

ARTICLE IV - ADMINISTRATIVE

Section 4.01 City manager.—There shall be a city manager who shall be the chief administrative officer of the city. The city manager shall be responsible to the council for the administration of all city affairs placed in the manager's charge by or under this charter.

Section 4.02 Appointments; removal; residency; compensation.—

(1) The council shall appoint a city manager for an indefinite term by majority vote of all the council members.

(2) The council may remove the city manager for good cause shown, by the affirmative vote of at least three members of the council. Upon request by the city manager, to be made within 5 days after receipt of written notification of such vote, a public hearing shall be held within 10 days after receipt of such request. After such hearing, the council, by affirmative vote of at least three council members, shall decide whether to reconsider its previous action.

(3) The manager need not be a resident of the city or state at the time of the manager's appointment, but may reside outside the city while in office only with the approval of the council.

(4) The compensation of the city manager shall be fixed by the council and shall not be reduced during the tenure of the city manager.

Section 4.03 Acting city manager.—By letter filed with the council, the city manager may designate a qualified city administrative officer to exercise the powers and perform the duties of manager during the city manager's temporary absence or disability, not to exceed a period of 30 days. During such absence or disability, the council may revoke such designation at any time and appoint another officer of the city to serve until the city manager shall return or the city manager's disability shall cease.

Section 4.04 Powers and duties of the city manager.—The city manager shall:

(1) Appoint and, when deemed necessary for the good of the city, suspend or remove any city employees and appointive administrative officers provided for, by, or under this charter, except as otherwise provided by law, this charter, or personnel rules adopted pursuant to this charter. The city manager may authorize any administrative officer who is subject to the direction and supervision of the city manager to exercise these powers with respect to subordinates in that officer's department.

(2) Direct and supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law.

(3) Attend all council meetings and have the right to take part in discussion, but may not vote.

(4) See that all laws, provisions of this charter, and acts of the council, subject to enforcement by the city manager or by the officers subject to the city manager's direction and supervision are faithfully executed.

(5) Prepare and submit the annual budget, budget message, and capital program to the council in a form provided by ordinance.

(6) Submit to the council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year.

(7) Make such other reports as the council may require concerning the operations of city departments, offices, and agencies subject to his direction and supervision.

(8) Keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he deems desirable.

(9) Perform such other duties as are specified in this charter or may be required by the council.

Section 4.05 Supervision of departments.—Except as otherwise provided in this charter or by general law, the city manager shall be responsible for the supervision and direction of all departments, agencies, or offices of the city. All departments, offices, and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. With the consent of council, the manager may serve as the head of one or more such departments, offices, or agencies or may appoint one

person as the head of two or more of them. The city manager shall prepare and enforce personnel policies and shall keep such policies current and in conformity with applicable federal and state laws. These policies shall be approved by the city council.

Section 4.06 Administrative code.—The manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the council.

Section 4.07 City attorney.—There shall be a city attorney, appointed by the council, who shall serve as chief legal advisor to the council and administration and shall represent the city in all legal proceedings and perform such other related duties as the council may deem necessary. The city attorney may be fulltime or parttime as the council may deem necessary. The provisions of section 4.02 applicable to the city manager shall be equally applicable to the city attorney.

ARTICLE V - NOMINATIONS AND ELECTIONS

Section 5.01 Electors.—Any person who is a resident of the city, has qualified as an elector of this state, and registers in the procedural manner prescribed by general law shall be an elector of the city.

Section 5.02 Nonpartisan elections.—All nominations and elections for the office of the city councilperson shall be conducted on a nonpartisan basis without regard for a designation of political party affiliation of any nominee on any nomination petition of ballot. All candidates for office must have been city residents for at least 1 year immediately prior to qualifying.

Section 5.03 Election date and candidate filing.—Commencing with 1996, elections shall be held on the Tuesday after the first Monday of November of each even-numbered year. Candidates for the several city council seats for which there are vacancies shall file for office no later than the seventh Tuesday preceding the election, and no sooner than 60 days prior to the election.

Section 5.04 Form of ballots.—Unless otherwise provided by general law, the council, by ordinance, shall prescribe the form of the ballot. An ordinance or charter amendment to be voted on by the city shall be presented for voting by ballot title. The ballot title for a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure with argument or prejudice. Below the ballot title shall appear the following question: "Shall the above-described (ordinance) (amendment) be adopted?" Immediately below such question shall appear, in the following order, the word "YES" and also the word "NO."

Section 5.05 Elections.—

(1) The candidates receiving the highest number of votes for the several offices to be filled shall be declared elected unless there is a tie vote.

(2) In the event of a tie vote, the provisions of the Florida Election Code, as amended, shall apply to determine who shall be elected.

Section 5.06 Canvass of elections.—For the canvass of votes for any election held pursuant to this charter, except for an election held concurrently with any regular state or countywide election, the canvassing board shall be composed of the mayor or his designee if he is opposed or incapacitated, the city manager, and the city attorney.

ARTICLE VI - INITIATIVE, REFERENDUM, RECALL

Section 6.01 Initiative.—The qualified voters of the city shall have the power to propose ordinances to the council and, if the council fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a city election, provided that such power shall not extend to the budget or capital program or to any ordinances relating to appropriation of money, levy of taxes, or salaries of city officers or employees.

Section 6.02 Referendum.—The qualified voters of the city shall, through the initiative process, have the power to propose or require repeal by the council of any adopted ordinance if the council fails to repeal or amend an ordinance so proposed to approve or reject it at a city election, provided that such ordinance shall not extend to the operating budget or any emergency ordinance relating to appropriation of money, but shall extend to an ordinance providing any single capital expenditure in excess of $250,000. If the proposed ordinance to repeal an existing city ordinance has met the signature requirements of s. 166.031, Florida Statutes, council shall repeal or amend the ordinance rather than place it on the ballot for a vote by the qualified electors.

Section 6.03 Recall.—Recall of elected officials shall be as provided for by general law.

Section 6.04 Commencement of proceedings.—Any five qualified voters may commence initiative and referendum proceedings by filing with the city manager or other official designated by the council an affidavit stating they will constitute the petitioner's committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner's committee is filed, the city manager or other official designated by the council shall, at the committee's request, issue the appropriate petition blanks to the petitioner's committee at the committee's expense.

Section 6.05 Petition—

(1) Initiative and referendum petitions must be signed by qualified voters of the city equal in number to at least 10 percent of the total number of qualified voters as of the last regular city election.

(2) All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each elector's signature shall be followed by the printed name and current street address of the person signing and the date on which the petition was signed. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered. Petitions must be accompanied by certification of the Collier County Supervisor of Elections as to the number of petitions signed by qualified voters of the city. There can be only one signature per petition form.

(3) Referendum petitions must be filed within 120 days after adoption by the council of the ordinance sought to be reconsidered.

Section 6.06 Procedure for filing.—

(1) City initiative petition proceedings shall commence only after petitioners have filed appropriate papers with the city manager forming a political action committee as required by the general election laws of the state. The format and content of the petition to be circulated shall conform to the requirements of general law for amending municipal charters and the general election laws and administrative rules for initiative petitions. Prior to circulation of any petition, it shall be submitted to the city attorney for review of the petition's format for technical sufficiency. The city attorney shall provide written comment of that review within 7 days. No review as to the legal sufficiency of the proposed amendment's text is to be undertaken by the city attorney. The number of valid voter signatures are as provided in s. 166.031, Florida Statutes. Petitions for amendments of the city charter or proposing ordinances for the city shall be received and considered by council only if accompanied by a certificate from the county's supervisor of elections as to the number of valid city electors thereon.

(2) Within 20 business days after certification of the registered voters is received from the supervisor of elections, the city manager or other official designated by the council shall complete a certificate as to its sufficiency, or, if it is insufficient, specifying the particulars wherein it is defective, and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified in section 6.05. No petitions shall be circulated which are deficient as to form or compliance with section 6.05 pursuant to the written review by the city attorney in subsection (1) of this section. If the number of signatures is insufficient, the council shall notify the committee filing the petition and allow 30 additional days for filing of additional petition papers, at the end of which time the sufficiency or insufficiency of the petition shall be finally determined.

Section 6.07 Referendum petitions; suspension of effect of ordinance.—When a referendum petition is filed with the city manager or other official designated by the council and deemed sufficient, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

(1) The petitioner's committee withdraws the petition;

(2) The council repeals the ordinance; or

(3) After a vote of the city electors on the ordinance has been certified.

Section 6.08 Action on petitions.—

(1) Once the certification of valid city electors is received, council shall take appropriate action addressing the sufficiency of the petition pursuant to s. 166.031, Florida Statutes. If the petition is sufficient, council shall schedule the item for an election or, if appropriate under section 6.02 of this charter, council may repeal or amend an existing ordinance thereby negating the need for an election. The council, in its discretion, may schedule the matter at either the next city election or a special election. If the petition is to repeal an ordinance, council shall determine whether or not to repeal or amend the existing ordinance at the next regularly scheduled council meeting following the determination of petition sufficiency. If council, in its discretion, determines not to amend or repeal the ordinance petitioned for repeal, a special election shall be called not less than 90 days from the date of determination of petition sufficiency. The special election on the repeal of an ordinance shall be by mail ballot unless such election can be scheduled concurrently with a city, county, state, or federal election occurring within that time period.

(2) If council decides a special election is to be held, it shall be conducted by mail ballot not less than 90 days from the date of council's determination of the need for a special election if there is no intervening city, county, state, or federal election on which this matter could be placed. Passage of the times provided in subsection (1) with out action by the council shall be considered rejection, refusal, or declination. Copies of the proposed ordinance shall be made available to the voters either at the polls or by mail ballot, whichever is appropriate. Any petition rejected by the voters may not be submitted again for 2 years. If repeal of a law is rejected by the voters, the law shall not again be suspended until repeal is supported by the voters or the council repeals it.

(3) An initiative or referendum petition may be withdrawn at any time prior to the 40th day preceding the day scheduled for a vote of the city by filing with the city manager or other official designated by the council a request for withdrawal signed by at least four members of the petitioner's committee. Upon the filing of such request the petition shall have no further force or effect and all proceeding thereon shall be terminated. Any and all costs, including labor, associated with the preparation and acquisition of supplies for the conduct of an election scheduled, but subsequently canceled because of the withdrawal of the petition, shall be reimbursed by the city to the supervisor of elections in full.

Section 6.09 Results of election.—

(1) If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

ARTICLE VII - GENERAL PROVISIONS

Section 7.01 Charter amendments.—This charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rules Powers Act, chapter 166, Florida Statutes, as the same may be amended from time to time, or its successor, or as may otherwise be provided by general law.

Section 7.02 Code of ethics.—

(1) Public officers, employees, members of licensing or advisory boards, and candidates shall conform to the Code of Ethics for Public Officials and Employees, part III of chapter 112, Florida Statutes, as the same may be amended from time to time.

(2) Public officers shall file all disclosure forms with the Collier County Supervisor of Elections as required by general law. Candidates shall file all disclosure forms along with their qualification documents. Employees and members of licensing or advisory boards shall file all disclosure forms as required by general law. Persons such as attorneys, engineers, certified public accountants, and the like, serving the city under contract, fulltime or parttime, shall file all forms required by general law at the times specified.

Section 7.03 Transitional comprehensive plan, land development regulations; development of regional impact and supplemental zoning regulations.—

(1) Until such time as the city adopts a comprehensive plan, the applicable provisions of the comprehensive plan of Collier County, as the same exists on the day the city commences corporate existence, shall remain in effect as the city's transitional comprehensive plan. However, all planning functions, duties, and authority shall thereafter be vested in the city council of Pelican Bay, which shall be deemed the local planning agency and all administrative functions, including permitting and enforcement, shall be vested in the city manager or his or her delegate. The city council may enter into contracts or agreements with other governmental units to provide any or all of these administrative functions.

(2) All powers and duties of the Collier County Planning Commission, the County Commission of Collier County, and any board of adjustment or appeals created pursuant to statutes or ordinance, as set forth in these transitional zoning and land use regulations and as they pertain to the Pelican Bay Development Order shall be vested in the city council of Pelican Bay until such times as the city council may delegate all or a portion thereof to another governmental unit.

(3) Subsequent to the commencement of the city's corporate existence, no amendment of the comprehensive plan or land development regulations or amendment to the Pelican Bay Development Order or the Pelican Bay Planned Unit Development (PUD) enacted by the Collier County Commission shall be deemed as an amendment to the city's transitional comprehensive plan or land development regulations or Pelican Bay Development Order or shall otherwise take effect within the corporate limits of the city unless approved by the city council.

(4) The city council will adopt a comprehensive plan in accordance with chapter 163, Florida Statutes. The city council may enact supplemental ordinances, rules, or regulations pertaining to zoning administration and enforcement, including site plan review and permitting. Prior to the adoption of such supplemental ordinances, rules, or regulations, the ordinances, rules, and regulations of Collier County pertaining to zoning administration and enforcement shall be applicable.

Section 7.04 Legislation review.—The council shall review during and within each even-decade year the city charter, the city ordinances, and the city resolutions then in existence. Following such review it shall take such action as may be in the best interest of the city in accordance with the provisions of the charter. Nothing herein shall invalidate any charter provision, ordinance or resolution then in effect.

Section 7.05 Penalties.—Violations of ordinances shall be punishable in accordance with the uniform fines and penalties set by general law.

Section 7.06 Separability.—If any article, section, subsection, sentence, clause, or provision of this charter shall be held invalid for any reason, the remainder of the charter and of any ordinances or regulations made thereunder shall remain in full force and effect.

ARTICLE VIII - STATE-SHARED REVENUES

Section 8.01 City participation in state-shared revenues programs.—The City of Pelican Bay shall be entitled to participate in the State of Florida Shared Revenue Programs and qualify as provided in part II of chapter 218, Florida Statutes, for all similar programs effective on July 1, 1995. Initial population for purposes of these programs shall be determined by the University of Florida Bureau of Economic and Business Research. Should the bureau be unable to provide an appropriate population estimate, a Collier County Department of Community Development estimate shall be utilized.

Section 8.02 Locally shared revenues.—The city shall be entitled to a share of all locally shared revenues, including, but not limited to, state sales tax and motor fuel tax, whether imposed by general state law or as a local option tax created pursuant to general state law. Participation in locally shared revenues shall be in accordance with chapter 218, Florida Statutes, other appropriate statutes, or through interlocal agreement, and will commence, where appropriate, during the first full fiscal year of incorporation, or upon signing of an interlocal agreement with the appropriate governmental agency.

ARTICLE IX - TRANSITION SCHEDULE

Section 9.01 Referendum.—The referendum election called for by subsection (2) of section 3 of this act shall be conducted by the Supervisor of Elections of Collier County by a mail ballot in accordance with the Mail Ballot Election Act, ss. 101.6101-101.6107, Florida Statutes. For purposes of the mail ballot the election date shall be within 120 days after this act becomes law. The following question shall be placed on the ballot:

"Shall HB/SB , as enacted by the 1995 Legislature, creating a City of Pelican Bay and providing for its Charter be approved?"

In the event this question is answered affirmatively by a majority of the voters voting in the referendum, the provisions of this charter shall take effect in accordance with this transition schedule. The expense of the mail ballot election shall be repaid by the city within 12 months.

Section 9.02 Schedule.—

(1) The organizational meeting shall be held on Monday, November 13, 1995, at 9:00 a.m. at the Hammock Oak Park meeting hall, Pelican Bay. The city council shall organize in accordance with the provisions of Article III of this charter.

(2) The newly elected council members shall meet as promptly as possible to appoint an acting city manager and city attorney.

(3) The city shall be incorporated and shall become a legal entity for all purposes, including taxation and revenue sharing, on December 31, 1995.

Section 9.03 First-year expenses.—The city council, in order to provide moneys for the expenses and support of the city until such times as budget is adopted and revenues are raised in accordance with provisions of this charter, shall have the power and authority to borrow money by resolution of the city council to an amount not exceeding $500,000 upon notes or other obligations of the city.

Section 9.04 Transition ordinances.—The council shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 60 days of the first council meeting under this charter for the purpose of facilitating the transition may be passed as emergency ordinances following the procedures in Article III, except that transition ordinances shall be effective for up to 90 days after enactment. Thereafter, such ordinances may be readopted, renewed, or otherwise continued only in the manner prescribed for regular ordinances in Article III.

Section 9.05 County ordinances and services during transition period.—

(1) Pursuant to Article VIII of the Florida Constitution, the ordinances, rules, and regulations of Collier County shall continue to be in effect within the boundaries of the City of Pelican Bay, except that a county ordinance, rule, or regulation in conflict with an ordinance, rule, or regulation of Pelican Bay shall not be effective to the extent of such conflict. Any existing Collier County ordinances, rules, and regulations as of the date this charter is approved shall not be altered, changed, rescinded, or added to, nor shall any variance be granted thereto insofar as such action would affect the City of Pelican Bay, without the approval of the city council. Collier County shall continue to provide all MSTD services (Unincorporated Area General Fund and Road District Two) and Pelican Bay MSTBU services (street lighting, water management, and right-of-way landscape operations) budgeted to be provided as of December 31, 1995, until October 1, 1996, unless the city council votes to terminate any or all such services provided by Collier County prior to October 1, 1996.

(2) If the city council terminates any MSTD and/or MSTBU service, from the termination date and thereafter, the city shall have, exercise, and enjoy all rights, immunities, powers, benefits, privileges, and franchises now and formerly possessed or held by said MSTD and/or MSTBU. The assets, liabilities, and contracts of said MSTD and/or MSTBU, including all rights, obligations, duties, and relationships now existing by law or agreement, shall be unaffected and shall remain in full force and effect and shall become those of the City of Pelican Bay All rights, claims, actions, orders, and any and all contracts between the terminated MSTD and/or MSTBU and key personnel, and all legal or administrative proceedings, shall continue in full force and effect under the jurisdiction of the City of Pelican Bay. To the extent not inconsistent with this charter, all resolutions and policies of the terminated MSTD and/or MSTBU shall remain in effect until amended, revised, or repealed by the city council.

(3) The North Naples Fire Control & Rescue District shall continue to provide fire protection services budgeted to be provided as of December 31, 1995, until October 1, 1996, unless the city council votes to terminate any or all such services prior to October 1, 1996.

Section 9.06 Effect of incorporation on certain existing indebtedness.—Nothing in this act shall affect the obligation of the city, or any property owners therein, for their rightful share of any indebtedness incurred through the Collier County Public Park and Recreation Municipal Service Taxing Unit or the Pelican Bay Municipal Services Taxing Benefit Unit in existence and legally due as of the date of incorporation.

Section 9.07 Deletion of obsolete schedule items.—The council shall have power, by resolution, to delete from this article any section, including this one, when all events to which the section to be deleted is or could become applicable have occurred.

Section 3. (1) Section 1 of this act shall take effect only upon its approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed Town of Fort Myers Beach as described in section 2.01, voting in a referendum election to be called by the Lee County Commission, except that sections 14.01 and 15.01 of section 1 of this act and this section shall take efffect upon becoming a law. The referendum election must be conducted by mail ballot in accordance with general law, and the mailed ballots must be counted by the Supervisor of Elections on July 25, 1995.

(2) Section 2 of this act shall take effect upon approval of a majority of the registered electors residing within the proposed corporate limits of the proposed City of Pelican Bay and voting in a referendum election as provided in section 9.01, except that section 9.01 and this section shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to Lee and Collier Counties; creating the "Town of Fort Myers Beach charter"; providing for the corporate name and purpose of the charter; establishing territorial boundaries of the municipality and authorizing annexations; providing powers of the municipality and of certain officers; providing for election of a town council, including the mayor and vice mayor, and providing for qualifications, powers, and duties of its membership, and a procedure for establishing their compensation and expense reimbursement; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; requiring independent financial audit; providing for council meetings, rules, recordkeeping, and voting at meetings; providing for nominations, elections, and terms of office of the council; providing for a town manager, town clerk, and town attorney and powers and duties of each; authorizing establishment of administrative departments; providing definitions; providing procedures for adoption of ordinances and resolutions, and for handling finances; establishing a fiscal year and annual budgets; providing procedures for initiative and referendum; providing for charter amendments and review; providing for severability; providing for transition, including initial election and terms, date and creation and establishment of the municipality, payment of certain revenues, and transitional comprehensive plan and land development regulations; entitling the town to state shared and local option gas tax revenues; providing for contractual services and facilities; eliminating transition elements; providing for services of independent special districts; providing for credit for special district taxes in qualifying for state revenue sharing; providing for local option gas taxes; establishing and organizing a municipality to be known and designated as the City of Pelican Bay in Collier County; defining territorial boundaries; providing for government, jurisdiction, elections, administrative code, procedure, powers, franchises, immunities, privileges, and means for exercising the same; prescribing the general powers to be exercised by said city; providing prohibitions; providing procedures for filling vacancies in office; providing for a city council, mayor, vice mayor, city manager, and city attorney; providing for initial election providing for compensation; providing for ordinances; providing for budget adoption; providing for independent financial audits; providing for amendments to city charter; providing for referendum petitions; providing severability; providing for a referendum; providing a schedule; providing for county ordinances and services during transition period; providing for referendums; providing effective dates.

On motion by Senator Dudley, by two-thirds vote **SB 3048** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

SB 3050—A bill to be entitled An act relating to Alachua County; providing for members of the Alachua County School Board to be elected on an nonpartisan basis; prescribing procedures for qualification for office and for conducting elections for members of the board; providing that the act applies prospectively only; providing for a referendum; providing effective dates.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **SB 3050** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SPECIAL ORDER, continued

SENATOR BANKHEAD PRESIDING

The Senate resumed consideration of—

SB 152—A bill to be entitled An act relating to the Florida Jobs Siting Act; amending s. 403.953, F.S.; revising the eligibility requirements for projects covered by the act; providing an effective date.

—which had been considered and amended this day. Pending **Amendment 3** by Senator Williams was adopted.

On motion by Senator Williams, the rules were waived to allow the following amendment to be considered:

Senator Williams moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 1, line 8, insert:

Section 1. Regional rural development grant program.—

(1) The Department of Commerce is authorized to establish a pilot matching grant program to provide funding to regionally based economic development organizations representing rural counties and communities in economic and fiscal distress, and, pursuant thereto, to make expenditures and enter into contracts with local governments and nonprofit corporations for the purpose of building the professional capacity of locally organized, regional organizations.

(2) Not more than five rural regional organizations may receive funding during the 2-year pilot period. The maximum amount an organization may receive each year of the pilot program is $20,000, and such amount must be matched each year by an equivalent amount of nonstate resources.

(3) In selecting the pilot participants, the department shall consider the demonstrated need of the applicants for assistance and such eligibility criteria as the Rural Economic Development Initiative considers appropriate, including, but not limited to, the following:

(a) Documentation of official commitments of support from each of the units of local government represented by the regional organization;

(b) Demonstration that each unit of local government has made a financial or in-kind commitment to the objectives of the regional organization;

(c) Demonstration that the organization has sought and successfully obtained financial and in-kind commitments from the private sector of the region;

(d) Demonstration that the organization is in existence and actively involved in economic development activities serving the region; and

(e) Submission of a plan that contains the region's economic development goals and objectives and demonstrates the manner in which the organization does or will coordinate its efforts with those of other local and state organizations.

(4) The department may expend up to $100,000 each fiscal year of the pilot from funds appropriated to the Rural Community Development Revolving Loan Fund for the purposes outlined in this section.

(5) The department shall provide a report on the results of the pilot program to the Governor no later than January 1, 1997. This report shall include recommendations for the program's continuation or termination.

(6) The department shall adopt rules governing the program pursuant to chapter 120, Florida Statutes.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: creating a pilot program within the Department of Commerce for the funding of regionally based economic development organizations representing rural counties and communities in economic and fiscal distress and for building the professional capacity of locally organized, regional organizations; providing criteria for eligibility for matching grants; providing for funding; requiring a report; providing for rulemaking;

On motion by Senator Burt, by two-thirds vote **SB 152** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Senate resumed consideration of—

CS for SB 734—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.26352, F.S.; providing for the Breeders' Cup Meet; authorizing pari-mutuel pools on thoroughbred horse races during the meet; prohibiting the conduct of certain racing within a certain distance of the facility at which the Breeders' Cup Meet is held during the meet; providing tax benefits and credits; authorizing the broadcast of the races conducted at the meet to other locations; providing for the commingling of certain wagers; providing for rules; prohibiting receipt of tax credit until completion of audit; providing time limitations; providing for the application of the act in the event of certain statutory conflicts; repealing s. 550.26353, F.S., relating to tax credits and tax exemptions for certain permitholders; amending s. 550.09515, F.S.; providing for a winter racing season and a summer racing season; providing for assignment of racing dates; requiring racing periods to be run consecutively during a season; prohibiting an applicant or facility from conducting thoroughbred racing in more than one season; defining the term "applicant" for purposes of conducting thoroughbred racing during a season; establishing a taxing structure on live handle; establishing an application deadline; amending s. 550.615, F.S.; authorizing intertrack wagers at certain facilities; amending s. 550.2625, F.S.; requiring horserace permitholders to withhold a sum for purses on exotic wagers; providing an effective date.

—which had been considered this day. Pending **Amendment 1** by Senator Casas was adopted.

On motion by Senator Casas, by two-thirds vote **CS for SB 734** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—1

CS for CS for SB 2684—A bill to be entitled An act relating to educational facilities; amending s. 235.011, F.S., relating to definitions; clarifying the term "board"; deleting the term "office"; adding the term "public education capital outlay funded projects"; amending s. 235.014, F.S.; transferring functions of the Office of Educational Facilities to the Department of Education and revising and deleting certain functions; creating s. 235.017, F.S.; requiring boards to ensure facility compliance; amending s. 235.02, F.S.; revising provisions relating to use of buildings and grounds; amending s. 235.054, F.S.; deleting certain office approval and revising provisions relating to purchase appraisal; deleting repeal of section; amending s. 235.055, F.S.; revising conditions relating to the construction of facilities on leased property; amending s. 235.056, F.S., relating to lease and lease-purchase of educational facilities and sites; revising provisions relating to approval and compliance with building and safety codes; amending s. 235.06, F.S.; revising provisions relating to inspection of property for compliance with safety and sanitation standards; amending s. 235.14, F.S., relating to emergency drills; amending s. 235.15, F.S., relating to educational plant survey; revising requirements for the conduct of surveys; providing certification requirements prior to release of funds; amending s. 235.155, F.S., relating to exception to recommendations in survey; amending s. 235.19, F.S.; revising provisions relating to site planning and selection; revising responsibility relating to traffic control and safety devices; amending s. 235.193, F.S.; requiring certain coor-

dination of planning with local governing bodies; amending s. 235.195, F.S., relating to cooperative development and use of facilities, to conform; amending s 235 198, F.S., relating to cooperative development and use of satellite facilities, to conform; amending s. 235.199, F.S., relating to requirements for funding of vocational education facilities, to conform; amending s. 235.211, F.S.; providing procedures for contracting for construction of facilities; providing requirements for construction and program management entities; revising provisions relating to construction techniques and selection process requirements; authorizing the purchase of certain architectural services; amending s. 235.26, F.S., relating to the State Uniform Building Code for Public Educational Facilities Construction, to conform; deleting standards relating to an energy performance index; providing for contract approval and duties; deleting provisions relating to fallout shelters; revising provisions relating to emergency shelters; requiring a statewide emergency shelter plan; amending s. 235.31, F.S.; revising provisions relating to awarding of contracts; providing definition of "emergency"; amending s. 235.321, F.S.; revising requirements for change orders; amending s. 235.33, F.S.; revising provisions relating to data filed after acceptance of a project; amending s. 235.41, F.S., relating to capital outlay budget request, to conform; amending s. 235.42, F.S., relating to allocation of funds, to conform; amending s. 235.435, F.S., relating to allocation of funds for comprehensive educational plant needs; conforming provisions; providing for allocation from the Public Education Capital Outlay and Debt Service Trust Fund to district school boards; deleting provisions relating to the Increased Utilization Account; requiring district school boards to identify fund source; restricting use of funds; amending s. 236.25, F.S.; increasing authorized district school board capital outlay millage levy; authorizing use of funds for lease and lease-purchase of buses and equipment; amending s. 216.301, F.S.; revising provisions relating to reversion of unexpended balance; amending s. 240.209, F.S., relating to Board of Regents' powers and duties; increasing the Capital Improvement Trust Fund fee; providing for application of revenues to capital outlay purposes; amending s. 240.319, F.S., relating to powers and duties of community college district boards of trustees; authorizing the incurrence of debt; amending s. 240.35, F.S.; providing for an increase in the capital improvement fee and authorizing bonding; creating s. 255.0516, F.S.; providing requirements for bid protests by school boards; revising provisions relating to public notice of plans intended for reuse; authorizing the disposal of described real property used by Florida Agricultural and Mechanical University to house nursing students and other described property; providing for use of proceeds; amending ss. 201.24, 230.23, and 404.056, F.S., to conform; reenacting ss. 228.053(9)(e) and 236.081(1)(i) and (4)(c)3., F.S., relating to funds for the operation of schools, to incorporate the amendment to s. 236.25, F.S., in references thereto; repealing ss. 235.16, 235.018, 235.196, and 235.222, F.S., relating to long-range planning, delegation of review and approval authority, community educational facilities, and repayment of loans; saving ss. 235.001, 235.002, 235.01, 235.011, 235.014, 235.02, 235.04, 235.05, 235.055, 235.056, 235.06, 235.09, 235.14, 235.15, 235.155, 235.18, 235.19, 235.193, 235.195, 235.198, 235.199, 235.211, 235.212, 235.26, 235.30, 235.31, 235.32, 235.321, 235.33, 235.34, 235.40, 235.42, 235.435, 235.44, 236.25(2), and 237.162, F.S., from repeal; providing legislative intent; creating s. 235.0155, F.S.; providing for prototype designs of facilities; providing an appropriation; providing for phase III plan reviews, subject to appropriation; providing an effective date.

—was read the second time by title.

Senator Latvala moved the following amendment:

Amendment 1—On page 8, strike line 16 and insert: *capital improvement programs of the boards and, upon request,* approve *phase III*

On motion by Senator Latvala, further consideration of **CS for CS for SB 2684** with pending **Amendment 1** was deferred.

SB 1074—A bill to be entitled An act relating to educational facilities; amending s. 235.211, F.S.; providing for reuse of certain documents; deleting certain selection process requirements; authorizing boards to purchase architectural services under an existing contract if certain conditions are met; amending s. 235.31, F.S., relating to purchase of certain services under contract; deleting certain selection process requirements; amending s. 287.055, F.S., relating to purchase of professional services; deleting requirement of public notice in certain instances; saving ss. 235.211 and 235.31, F.S., from repeal; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 1074** to conform the bill to **CS for HB 737**.

Pending further consideration of **SB 1074** as amended, on motion by Senator Forman, by two-thirds vote **CS for HB 737** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Forman—

CS for HB 737—A bill to be entitled An act relating to educational facilities; amending s. 235.211, F.S.; providing for reuse of certain documents; deleting certain selection process requirements; authorizing boards to purchase architectural services under an existing contract if certain conditions are met; amending s. 287.055, F.S., relating to purchase of professional services; revising provisions relating to intended reuse of plans by school boards; saving ss. 235.211 and 235.31, F.S., from repeal; providing an effective date.

—a companion measure, was substituted for **SB 1074** and read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for HB 737** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SB 2664—A bill to be entitled An act relating to interscholastic activities; amending s. 232.425, F.S.; prescribing guidelines for home educated students to participate in interscholastic extracurricular student activities; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendment which was moved by Senator Grant and adopted:

Amendment 1 (with Title Amendment)—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. Subsection (7) is added to section 240.116, Florida Statutes, to read:

240.116 Articulated acceleration.—

(7)(a) It is the intent of the Legislature to provide the articulated acceleration mechanisms for students in a home education program, as defined in s. 228.041(34), to be consistent with the educational opportunities available to Florida public and nonpublic secondary school students.

(b) The dual enrollment program shall be the enrollment of an eligible home education program secondary student in a postsecondary course creditable toward an associate or baccalaureate degree or a career education certificate. To participate in the dual enrollment program, an eligible home education program secondary student shall:

1. Provide proof of enrollment in a home education program pursuant to s. 232.02(4).

2. Be responsible for his or her own instructional materials and transportation.

(c) Each community college and state university shall:

1. Delineate courses and programs for dually enrolled home education program students. Courses and programs may be added or deleted at any time.

2. Identify eligibility criteria for home education program student participation, such requirements not to exceed those required for other dually enrolled students.

Section 2. Section 232.425, Florida Statutes, is amended to read:

232.425 Student standards for participation in interscholastic extracurricular student activities.—

(1) To be eligible to participate in interscholastic extracurricular student activities, a student must maintain a grade point average of 1.5 on a 4.0 scale, or its equivalent, and must pass five subjects for the grading period immediately preceding participation; except that student eligibility for the first grading period of each new school year shall be based on passing five subjects and maintaining the required grade point average

the previous school year, including subjects completed during the interim summer school session. Any student who is exempt from attending a full school day under s. 228.041(13) must maintain a 1.5 grade point average and pass each class for which he is enrolled. The student standards for participation in interscholastic extracurricular activities shall be applied beginning with the student's first semester of the 9th grade. Each student must meet such other requirements for participation as may be established by the school district.

(2)(a) It is the intent of the Legislature to provide the mechanism for students in a home education program, as defined in s. 228.041(34), to participate in interscholastic extracurricular student activities.

(b) Home education program students shall not be denied by a school district or the Florida High School Activities Association the opportunity to participate in any interscholastic extracurricular student activity.

(c) An eligible home education program student shall satisfy the requirements of the home education program pursuant to s 232 02(4).

(d) Any public school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular student activities shall be ineligible to participate in such activities as a home education program student for the duration of the school year in which the student becomes academically ineligible and for the following year. The student must successfully complete 1 full year in the home education program pursuant to s. 232.02(4) to become eligible for the following year.

(e) The home education program student shall be given equal opportunity for selection, competition, and success as is afforded other students in the school. The home education program student shall meet the same standards of acceptance, behavior, and performance as other students participating in the activity of the team or squad.

(f) The home education program student participating in interscholastic extracurricular student activities of a public school must reside within the attendance boundaries of the school for which the student participates. However, the school district or the Florida High School Activities Association may not prohibit an association of home education program students from participating as a home school team, band, or other type of separate and complete group.

Section 3. This act shall take effect July 1, 1995.

And the title is amended as follows:

In title, on page 1, strike all of lines 1-7 and insert: A bill to be entitled An act relating to home education; amending s. 240.116, F.S.; providing for dual enrollment for home education program students; providing requirements; amending s. 232.425, F.S.; authorizing participation of home education program students in interscholastic extracurricular student activities in the public schools; providing an effective date.

On motion by Senator Grant, by two-thirds vote **SB 2664** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 2404—A bill to be entitled An act relating to university personnel records; amending s. 240.253, F.S.; specifying records that are not limited-access records; providing for the adoption of rules; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Effective July 1, 1995, section 240.253, Florida Statutes, is amended to read:

240.253 Personnel records.—

(1) Each ~~The~~ university *shall* ~~may~~ *adopt rules prescribing* ~~prescribe~~ the content and custody of *limited-access* ~~limited access~~ records *that* ~~which~~ the university may maintain on its employees. *Such limited-access records are confidential and exempt from the provisions of s. 119.07(1). Such records are limited to the following:*

(a) Records containing information reflecting academic evaluations of employee performance and shall be open to inspection only by the employee and by officials of the university responsible for supervision of the employee.

(b) Records maintained for the purposes of any investigation of employee misconduct, including but not limited to a complaint against an employee and all information obtained pursuant to the investigation of such complaint, shall be confidential until the investigation ceases to be active or until the university provides written notice to the employee who is the subject of the complaint that the university has either:

1. Concluded the investigation with a finding not to proceed with disciplinary action;

2. Concluded the investigation with a finding to proceed with disciplinary action; or

3. Has issued a letter of discipline.

For the purpose of this paragraph, an investigation shall be considered active as long as it is continuing with a reasonable, good faith anticipation that a finding will be made in the foreseeable future. An investigation shall be presumed to be inactive if no finding is made within 90 days after the complaint is filed.

(c) Records maintained for the purposes of any disciplinary proceeding brought against an employee shall be confidential until a final decision is made in the proceeding. The record of any disciplinary proceeding, including any evidence presented, shall be open to inspection by the employee at all times.

(d) Records maintained for the purposes of any grievance proceeding brought by an employee for enforcement of a collective bargaining agreement or contract shall be confidential and shall be open to inspection only by the employee and by officials of the university conducting the grievance proceeding until a final decision is made in the proceeding. ~~Such records shall be limited to information reflecting evaluations of employee performance and shall be open to inspection only by the employee and by officials of the university who are responsible for supervision of the employee. Such limited access employee records are confidential and exempt from the provisions of s. 119.07(1).~~

(2) Notwithstanding the foregoing, any records or portions thereof which are otherwise confidential by law shall continue to be exempt from the provisions of s. 119.07(1). In addition, for sexual harassment investigations, portions of such records which identify the complainant, a witness, or information which could reasonably lead to the identification of the complainant or a witness are limited-access records.

(3) Except as required for use by the president in the discharge of his official responsibilities, the custodian of *limited-access* ~~limited access employee~~ records may release information from such records only upon authorization in writing from the employee or upon order of a court of competent jurisdiction. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(4) Notwithstanding the provisions of subsection (1), records comprising the common core items contained in the State University System Student Assessment of Instruction instrument may not be prescribed as limited-access records.

(5) This act shall apply to records created after July 1, 1995.

Section 2. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to university personnel records; amending s. 240.253, F.S.; specifying records that are not limited-access records; providing for the adoption of rules; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote **SB 2404** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 1940—A bill to be entitled An act relating to district school tax; amending s. 236.25, F.S.; authorizing the use of ad valorem tax revenue for the lease or lease-purchase of certain items; reviving and readopting s. 236.25(2), F.S., relating to district school tax levies; providing an effective date.

—was read the second time by title. On motion by Senator Sullivan, by two-thirds vote **SB 1940** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Senate resumed consideration of—

CS for CS for SB 2684—A bill to be entitled An act relating to educational facilities; amending s. 235.011, F.S., relating to definitions; clarifying the term "board"; deleting the term "office"; adding the term "public education capital outlay funded projects"; amending s. 235.014, F.S.; transferring functions of the Office of Educational Facilities to the Department of Education and revising and deleting certain functions; creating s. 235.017, F.S.; requiring boards to ensure facility compliance; amending s. 235.02, F.S.; revising provisions relating to use of buildings and grounds; amending s. 235.054, F.S.; deleting certain office approval and revising provisions relating to purchase appraisal; deleting repeal of section; amending s. 235.055, F.S.; revising conditions relating to the construction of facilities on leased property; amending s. 235.056, F.S., relating to lease and lease-purchase of educational facilities and sites; revising provisions relating to approval and compliance with building and safety codes; amending s. 235.06, F.S.; revising provisions relating to inspection of property for compliance with safety and sanitation standards; amending s. 235.14, F.S., relating to emergency drills; amending s. 235.15, F.S., relating to educational plant survey; revising requirements for the conduct of surveys; providing certification requirements prior to release of funds; amending s. 235.155, F.S., relating to exception to recommendations in survey; amending s. 235.19, F.S.; revising provisions relating to site planning and selection; revising responsibility relating to traffic control and safety devices; amending s. 235.193, F.S.; requiring certain coordination of planning with local governing bodies; amending s. 235.195, F.S., relating to cooperative development and use of facilities, to conform; amending s. 235.198, F.S., relating to cooperative development and use of satellite facilities, to conform; amending s. 235.199, F.S., relating to requirements for funding of vocational education facilities, to conform; amending s. 235.211, F.S.; providing procedures for contracting for construction of facilities; providing requirements for construction and program management entities; revising provisions relating to construction techniques and selection process requirements; authorizing the purchase of certain architectural services; amending s. 235.26, F.S., relating to the State Uniform Building Code for Public Educational Facilities Construction, to conform; deleting standards relating to an energy performance index; providing for contract approval and duties; deleting provisions relating to fallout shelters; revising provisions relating to emergency shelters; requiring a statewide emergency shelter plan; amending s. 235.31, F.S.; revising provisions relating to awarding of contracts; providing definition of "emergency"; amending s. 235.321, F.S.; revising requirements for change orders; amending s. 235.33, F.S.; revising provisions relating to data filed after acceptance of a project; amending s. 235.41, F.S., relating to capital outlay budget request, to conform; amending s. 235.42, F.S., relating to allocation of funds, to conform; amending s. 235.435, F.S., relating to allocation of funds for comprehensive educational plant needs; conforming provisions; providing for allocation from the Public Education Capital Outlay and Debt Service Trust Fund to district school boards; deleting provisions relating to the Increased Utilization Account; requiring district school boards to identify fund source; restricting use of funds; amending s. 236.25, F.S.; increasing authorized district school board capital outlay millage levy; authorizing use of funds for lease and lease-purchase of buses and equipment; amending s. 216.301, F.S.; revising provisions relating to reversion of unexpended balance; amending s. 240.209, F.S., relating to Board of Regents' powers and duties; increasing the Capital Improvement Trust Fund fee; providing for application of revenues to capital outlay purposes; amending s. 240.319, F.S., relating to powers and duties of community college district boards of trustees; authorizing the incurrence of debt; amending s. 240.35, F.S.; providing for an increase in the capital improvement fee and authorizing bonding; creating s. 255.0516, F.S.; providing requirements for bid protests by school boards; revising provisions relating to public notice of plans intended for reuse; authorizing the disposal of described real property used by Florida Agricultural and Mechanical University to house nursing students and other described property; providing for use of proceeds; amending ss. 201.24, 230.23, and 404.056, F.S., to conform; reenacting ss. 228.053(9)(e) and 236.081(1)(i) and (4)(c)3., F.S., relating to funds for the operation of schools, to incorporate the amendment to s. 236.25, F.S., in references thereto; repealing ss. 235.16, 235.018, 235.196, and 235.222, F.S., relating to long-range planning, delegation of review and approval authority, community educational facilities, and repayment of loans; saving ss. 235.001, 235.002, 235.01, 235.011, 235.014, 235.02, 235.04, 235.05, 235.055, 235.056, 235.06, 235.09, 235.14, 235.15, 235.155, 235.18, 235.19, 235.193, 235.195, 235.198, 235.199, 235.211, 235.212, 235.26, 235.30, 235.31, 235.32, 235.321, 235.33, 235.34, 235.40, 235.42, 235.435, 235.44, 236.25(2), and 237.162, F.S., from repeal; providing legislative intent; creating s. 235.0155, F.S.; providing for prototype designs of facilities; providing an appropriation; providing for phase III plan reviews, subject to appropriation; providing an effective date.

—which had been considered this day. Pending **Amendment 1** by Senator Latvala was adopted.

Senator Latvala moved the following amendments which were adopted:

Amendment 2—On page 6, strike all of lines 17-20 and insert: shall also establish, *for postsecondary education classrooms,* a minimum *room* utilization rate of *40 hours per week and a minimum station utilization rate of 60 percent. These rates shall be subject to increase based on national norms for utilization of postsecondary education classrooms* ~~90 percent of all postsecondary classrooms, based on the 65 hours per week, Monday through Saturday~~.

Amendment 3—On page 37, strike all of lines 12-14 and insert: compliance with the State Uniform Building Code for Public Educational Facilities Construction. Rules adopted pursuant to this

Amendment 4—On page 74, line 7, after "*235*" insert: *or a construction project of the Board of Regents*

Amendment 5 (with Title Amendment)—On page 74, strike all of lines 16-25 and insert:

Section 27. Subsection (9) is added to section 240.209, Florida Statutes, 1994 Supplement, to read:

240.209 Board of Regents; powers and duties.—

And the title is amended as follows:

In title, on page 3, strike all of lines 28 and 29 and insert: duties; providing for application of

Amendment 6 (with Title Amendment)—On page 75, line 19, through page 76, line 14, strike all of said lines and insert:

Section 29. Subsection (13) of section 240.35, Florida Statutes, is amended to read:

240.35 Student fees.—Unless otherwise provided, the provisions of this section apply only to fees charged for college-credit instruction.

(13)*(a)* Each community college board of trustees may establish a separate fee for capital improvements or equipping student buildings which may not exceed $1 per credit hour or credit-hour equivalent for residents and which equals or exceeds $3 per credit hour for nonresidents. Funds collected through these fees may ~~not~~ be bonded *as provided in paragraph (b)*. The fee shall be collected as a component part of the registration and tuition fees, paid into a separate account, and expended only to construct and equip, maintain, improve, or enhance the educational facilities of the community college. Projects funded through the use of the capital improvement fee shall meet the survey and construction requirements of chapter 235. Pursuant to s. 216.0158, each community college shall identify each project, including maintenance projects, proposed to be funded in whole or in part by such fee. A maximum of 15 cents per credit hour may be allocated from the capital improvement fee for child care centers conducted by the community college.

(b) Capital improvement fee revenues may be pledged by a community college district board of trustees as a dedicated revenue source to the repayment of debt, for a term not to exceed 20 years, including lease-purchase agreements and revenue bonds.

And the title is amended as follows:

In title, on page 4, strike all of lines 3 and 4 and insert: amending s. 240.35, F.S.;

Amendment 7—On page 65, lines 28-31 and on page 66, lines 1-8, strike all of said lines

THE PRESIDENT PRESIDING

Further consideration of **CS for CS for SB 2684** as amended was deferred.

RECESS

On motion by Senator Jennings, the Senate recessed at 12:01 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:27 p.m. A quorum present—39:

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	

CLAIM BILLS

CS for SB 80—A bill to be entitled An act relating to Broward County; providing for the relief of Nicholas Maracic; providing an appropriation to compensate him for injuries sustained as a result of the negligence of Broward County; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for SB 80** was read the third time by title and failed to pass. The vote was:

Yeas—13 Nays—23

CS for SB 986—A bill to be entitled An act for the relief of Raul Eguaras; providing an appropriation to compensate him for severe and permanent orthopedic and neurological injuries sustained due to the negligence of the Department of Natural Resources; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for SB 986** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for SB 988—A bill to be entitled An act for the relief of Darcy Cogan; providing an appropriation to compensate her for injuries sustained due to the negligence of the State of Florida, Department of Environmental Protection, formerly the Department of Natural Resources; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for SB 988** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 1412—A bill to be entitled An act relating to Metropolitan Dade County; providing for the relief of Edgar Groh; providing an appropriation to compensate him for damages sustained as a result of a motor vehicle accident with a Metropolitan Dade County police vehicle; providing an effective date.

—was read the second time by title. On motion by Senator Casas, by two-thirds vote **CS for SB 1412** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 1520—A bill to be entitled An act relating to the North Broward Hospital District; providing for the relief of Christopher Bruno, a minor, by and through his mother and legal guardian, Rosalie Bruno; providing an appropriation to compensate them for injuries sustained by Christopher Bruno as a result of the negligence of the North Broward Hospital District, d.b.a. Broward General Medical Center; providing an effective date.

—was read the second time by title.

Senator Weinstein moved the following amendment which was adopted:

Amendment 1—On page 2, line 6, following the period (.) insert: Obligations incurred shall include payment of medical liens in an amount not to exceed $10,000; payment of attorney's fees not to exceed 25 percent, in compliance with section 768.28, Florida Statutes; and payment of the reasonable costs of litigation as approved by the circuit court.

On motion by Senator Weinstein, by two-thirds vote **CS for SB 1520** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 2318—A bill to be entitled An act for the relief of Kevin Hoyle and Laura Hoyle, his wife; providing an appropriation to compensate them for injuries sustained as a result of the negligence of the University of Florida; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for SB 2318** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for CS for SB 2684—A bill to be entitled An act relating to educational facilities; amending s. 235.011, F.S., relating to definitions; clarifying the term "board"; deleting the term "office"; adding the term "public education capital outlay funded projects"; amending s. 235.014, F.S.; transferring functions of the Office of Educational Facilities to the Department of Education and revising and deleting certain functions; creating s. 235.017, F.S.; requiring boards to ensure facility compliance; amending s. 235.02, F.S.; revising provisions relating to use of buildings and grounds; amending s. 235.054, F.S.; deleting certain office approval and revising provisions relating to purchase appraisal; deleting repeal of section; amending s. 235.055, F.S.; revising conditions relating to the construction of facilities on leased property; amending s. 235.056, F.S., relating to lease and lease-purchase of educational facilities and sites; revising provisions relating to approval and compliance with building and safety codes; amending s. 235.06, F.S.; revising provisions relating to inspection of property for compliance with safety and sanitation standards; amending s. 235.14, F.S., relating to emergency drills; amending s. 235.15, F.S., relating to educational plant survey; revising requirements for the conduct of surveys; providing certification requirements prior to release of funds; amending s. 235.155, F.S., relating to exception to recommendations in survey; amending s. 235.19, F.S.; revising provisions relating to site planning and selection; revising responsibility relating to traffic control and safety devices; amending s. 235.193, F.S.; requiring certain coordination of planning with local governing bodies; amending s. 235.195, F.S., relating to cooperative development and use of facilities, to conform; amending s. 235.198, F.S., relating to cooperative development and use of satellite facilities, to conform; amending s. 235.199, F.S., relating to requirements for funding of vocational education facilities, to conform; amending s. 235.211, F.S.; providing procedures for contracting for construction of facilities; providing requirements for construction and program management entities; revising provisions relating to construction techniques and selection process requirements; authorizing the purchase of certain architectural services; amending s. 235.26, F.S., relating to the State Uniform Building Code for Public Educational Facilities Construction, to conform; deleting standards relating to an energy performance

index; providing for contract approval and duties; deleting provisions relating to fallout shelters; revising provisions relating to emergency shelters; requiring a statewide emergency shelter plan; amending s. 235.31, F.S.; revising provisions relating to awarding of contracts; providing definition of "emergency"; amending s. 235.321, F.S.; revising requirements for change orders; amending s. 235.33, F.S.; revising provisions relating to data filed after acceptance of a project; amending s. 235.41, F.S., relating to capital outlay budget request, to conform; amending s. 235.42, F.S., relating to allocation of funds, to conform; amending s. 235.435, F.S., relating to allocation of funds for comprehensive educational plant needs; conforming provisions; providing for allocation from the Public Education Capital Outlay and Debt Service Trust Fund to district school boards; deleting provisions relating to the Increased Utilization Account; requiring district school boards to identify fund source; restricting use of funds; amending s. 236.25, F.S.; increasing authorized district school board capital outlay millage levy; authorizing use of funds for lease and lease-purchase of buses and equipment; amending s. 216.301, F.S.; revising provisions relating to reversion of unexpended balance; amending s. 240.209, F.S., relating to Board of Regents' powers and duties; increasing the Capital Improvement Trust Fund fee; providing for application of revenues to capital outlay purposes; amending s. 240.319, F.S., relating to powers and duties of community college district boards of trustees; authorizing the incurrence of debt; amending s. 240.35, F.S.; providing for an increase in the capital improvement fee and authorizing bonding; creating s. 255.0516, F.S.; providing requirements for bid protests by school boards; revising provisions relating to public notice of plans intended for reuse; authorizing the disposal of described real property used by Florida Agricultural and Mechanical University to house nursing students and other described property; providing for use of proceeds; amending ss. 201.24, 230.23, and 404.056, F.S., to conform; reenacting ss. 228.053(9)(e) and 236.081(1)(i) and (4)(c)3., F.S., relating to funds for the operation of schools, to incorporate the amendment to s. 236.25, F.S., in references thereto; repealing ss. 235.16, 235.018, 235.196, and 235.222, F.S., relating to long-range planning, delegation of review and approval authority, community educational facilities, and repayment of loans; saving ss. 235.001, 235 002, 235.01, 235.011, 235.014, 235.02, 235.04. 235.05, 235.055, 235.056, 235.06, 235.09, 235.14, 235.15, 235.155, 235.18, 235.19, 235.193, 235.195, 235.198, 235.199, 235.211, 235.212, 235.26, 235.30, 235.31, 235 32, 235.321, 235.33, 235.34, 235.40, 235.42, 235.435, 235.44, 236.25(2), and 237.162, F.S., from repeal; providing legislative intent; creating s. 235.0155, F.S.; providing for prototype designs of facilities; providing an appropriation; providing for phase III plan reviews, subject to appropriation; providing an effective date.

—which had been considered and amended this day.

Senator Latvala moved the following amendments which were adopted:

Amendment 8—On page 69, strike line 3 and insert: (1)(a) and (2)(a) and *the provisions* ~~paragraph (a)~~ of

Amendment 9—On page 87, lines 26 and 27, strike "Public Education Capital Outlay" and insert: Facilities Construction Administrative

Amendment 10—On page 88, between lines 2 and 3, insert:

Section 44. Effective on the effective date of section 255.0525, Florida Statutes, as created by Senate Bill 2386, enacted in the 1995 Regular Session of the Legislature, that section is amended to read:

255.0525 Advertising for competitive bids or proposals.—

(1) The solicitation of competitive bids or proposals for any state construction project that is projected to cost more than $200,000 shall be publicly advertised once in the Florida Administrative Weekly at least 21 days prior to the established bid opening. For state construction projects that are projected to cost more than $500,000, the advertisement shall be published in the Florida Administrative Weekly at least 30 days prior to the established bid opening and at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid opening *and at least 5 days prior to any scheduled pre-bid conference*. The bids or proposals shall be received and opened publicly at the location, date, and time established in the bid or proposal advertisement. In cases of emergency, the Secretary of Management Services may alter the procedures required in this section in any manner that is reasonable under the emergency circumstances.

(2) The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than $200,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 21 days prior to the established bid opening *and at least 5 days prior to any scheduled pre-bid conference*. The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than $500,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid opening *and at least 5 days prior to any scheduled pre-bid conference*. Bids or proposals shall be received and opened at the location, date, and time established in the bid or proposal advertisement. In cases of emergency, the procedures required in this section may be altered by the local governmental entity in any manner that is reasonable under the emergency circumstances.

(3) If the location, date, or time of the bid opening changes, written notice of the change must be given, as soon as practicable after the change is made, to all persons who are registered to receive any addenda to the plans and specifications.

(4)~~(3)~~ A construction project may not be divided into more than one project for the purpose of evading the requirements in this section.

(5)~~(4)~~ As used in this section, the term "emergency" means *an* ~~a sudden~~ unexpected turn of events that causes:

(a) An immediate danger to the public health or safety;

(b) An immediate danger of loss of public or private property; or

(c) An interruption in the delivery of an essential governmental service.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 5, line 4, after the semicolon (;) insert: amending s. 255.0525, F.S , as created by Senate Bill 2386, enacted in the 1995 Regular Session of the Legislature; requiring that the solicitation of bids or proposals for certain construction projects be advertised; prohibiting the division of projects to avoid advertising requirements;

Senator Forman moved the following amendment which was adopted:

Amendment 11—On page 36, line 31, strike "*Pursuant to*" and insert: *Notwithstanding*

Senator Dyer moved the following amendment which was adopted:

Amendment 12—On page 86, line 31 and on page 87, line 1, strike all of said lines and insert: schools, middle schools, and high schools. The department *shall* contract *with registered architects* for services to develop these prototypes. However,

Senator Latvala moved the following amendment which was adopted:

Amendment 13—On page 17, line 3, strike "lowest and"

On motion by Senator McKay, further consideration of **CS for CS for SB 2684** as amended was deferred.

On motion by Senator Jones, by two-thirds vote **CS for HB 821** was withdrawn from the Committees on Higher Education; and Ways and Means.

On motion by Senator Jones—

CS for HB 821—A bill to be entitled An act relating to educational assessment; naming the "Robert H. McCabe CLAST and Other Skills Act"; providing intent; amending s. 229.053, F.S., relating to the powers of the State Board of Education; requiring additional duties; amending s. 231.17, F.S., relating to the certification of teachers; providing for alternative assessments of minimum competency; amending s. 240.107, F.S., relating to the college-level communication and computation skills examination; deleting a reporting requirement; providing for alternative assessments of academic proficiency; amending s. 240.311, F.S., relating to the powers of the State Board of Community Colleges; deleting reference to test information; amending s. 240.324, F.S., relating to the community college accountability process; deleting reference to performance rates on academic skills tests; providing an effective date.

—a companion measure, was substituted for **CS for SB 1938** and read the second time by title. On motion by Senator Jones, by two-thirds vote **CS for HB 821** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—1

SB 1918—A bill to be entitled An act relating to education; amending s. 231.600, F.S., relating to teacher education centers; requiring the Department of Education, district school boards, and public community colleges and universities to develop and implement a school community professional-development system; providing required activities and characteristics of the system; requiring funding; requiring an evaluation; repealing s. 231.602, F.S., relating to definitions; repealing s. 231.603, F.S., relating to the establishment and operation of teacher education centers; repealing s. 231.605, F.S., relating to facilities of teacher education centers; repealing s. 231.606, F.S., relating to the administration of teacher education centers; repealing s. 231.607, F.S., relating to multidistrict centers; repealing s. 231.608, F.S., relating to evaluation; repealing s. 231.609, F.S., relating to funding of teacher education centers; amending s. 231.546, F.S.; correcting a cross-reference; amending s. 231.613, F.S.; correcting a cross-reference; providing an effective date.

—was read the second time by title.

The Committee on Education recommended the following amendments which were moved by Senator Sullivan and adopted:

Amendment 1—On page 4, line 30, strike "and 231.607," and insert: 231.607, and 231.608,

Amendment 2 (with Title Amendment)—On page 5, line 31, insert:

Section 5. Paragraph (a) of subsection (3) of section 240.529, Florida Statutes, is amended to read:

240.529 Public accountability and state approval for teacher preparation programs.—

(3) INITIAL STATE PROGRAM APPROVAL.—

(a) A program approval process, based on standards adopted pursuant to subsection (2), shall be established for postsecondary teacher preparation programs. This program approval process shall be phased in according to timelines determined by the Department of Education and, by July 1, 1995, shall be fully implemented for all teacher preparation programs in the state. *Each program shall choose one of the following options:*

1. *An* ~~This~~ approval process *that incorporates* ~~for State University System teacher preparation programs shall incorporate~~ those provisions and requirements necessary for recognition by the National Council for the Accreditation of Teacher Education and *that provides* ~~shall provide~~ for joint accreditation and program approval review by the state and the National Council for the Accreditation of Teacher Education for those units seeking initial or continuing accreditation. The approval process shall be consistent with the intent set forth in subsection (1)*; or*.

2. *An alternative* ~~Nonpublic postsecondary teacher preparation institutions shall choose the approval process specified in subparagraph 1. or an alternate~~ program approval process developed by the department. This *alternative* ~~alternate~~ approval process shall be consistent with the intent set forth in subsection (1) and shall be based primarily upon significant, objective, and quantifiable graduate performance measures. This approval process shall not be based on National Council for the Accreditation of Teacher Education provisions and requirements.

For purposes of this section, *the term* "unit" is defined by the National Association for the Accreditation of Teacher Education and means the college, school, department, or other administrative body within the institution that is primarily responsible for the preparation of teachers and other professional education personnel. *The term* "program" is defined by the State Board of Education and means a set of courses, activities, or other experiences designed to help individuals develop the competencies required for a specified type of certification coverage.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 25, after the semicolon (;) insert: amending s. 240.529, F.S.; authorizing public teacher preparation program recognition by the National Council for the Accreditation of Teacher Education to be optional;

Senator Sullivan moved the following amendment which was adopted:

Amendment 3 (with Title Amendment)—On page 6, strike all of lines 1 and 2 and insert:

Section 5. Effective January 1, 1996, section 231.24, Florida Statutes, 1994 Supplement, is amended to read:

231.24 *Process for* renewal of professional certificates.—

(1)(a) School districts in this state shall be responsible for renewal of state issued professional certificates as follows:

1. Each school district shall renew state issued professional certificates for individuals who hold a professional certificate by this state and are employed in that district. Renewals shall be granted pursuant to criteria established in subsections (2), (3), and (4) and requirements specified in rules of the State Board of Education.

2. The employing school district may charge the individual an application fee not to exceed the amount charged by the Department of Education for such services, including associated late renewal fees. Each school board shall transmit monthly to the department $20 for each renewed certificate to cover the costs for maintenance and operation of the statewide certification database and for costs incurred in printing and mailing such renewed certificates. As defined in current rules of the State Board of Education, the department shall contribute a portion of such fee for purposes of funding the Educator Recovery Network as established in s. 231.263. All funds shall be deposited by the department into the "Educational Certification Trust Fund" and used for purposes specified in s. 231.30.

(b) The department is responsible for renewal of state issued professional certificates for individuals who are not employed by a school board of this state. Renewals shall be granted pursuant to criteria established in subsections (2), (3), and (4) and requirements specified in rules of the State Board of Education.

(2)~~(1)~~ All professional certificates, except a nonrenewable professional certificate, issued to school personnel shall be renewable for successive periods not to exceed 5 years from the date of submission of documentation of completion of the requirements for renewal provided in subsection *(3)* ~~(2)~~. Only one renewal may be granted during each 5-year validity period of a professional certificate. However, if the renewal application form is not received by the department *or the employing school district* before the expiration of the professional certificate, the application form, application fee, and a late fee shall be submitted prior to July 1 of the year following expiration of the certificate in order to renew the professional certificate. The state board shall adopt rules to allow a 1-year extension of the validity period of a professional certificate in the event of serious illness, injury, or other extraordinary extenuating circumstances of the applicant. The department shall grant such 1-year extension upon written request of the superintendent of the local school district or the governing authority of a developmental research school, state-supported school, or nonpublic school that has an approved professional orientation program.

(3)~~(2)~~ For the renewal of a professional certificate, the following requirements shall be met:

(a)1. The applicant shall earn a minimum of 6 college credits or 120 inservice points or a combination thereof. For each area of specialization to be retained on a certificate, the applicant shall earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Education in "clinical educator" training pursuant to s. 240.529(5)(b) and credits or points that provide training in the area of exceptional student education, normal child development, and the disorders of development may be applied toward any specialization area. Until June 30, 2000, credits or points that provide training in the areas of drug abuse, child abuse and neglect, strategies in teaching limited English proficient students or dropout prevention, or training in areas identified in the educational goals and performance standards adopted pursuant to ss. 229.591(3) and 229.592 may be applied toward any specialization area. Credits or points earned through approved summer institutes may be applied toward the fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components

approved by the State Board of Education and specified pursuant to s. 236.0811 in the district's approved master plan for inservice educational training, including, but not limited to, serving as a trainer in an approved teacher training activity, serving on an instructional materials committee or a state board or commission that deals with educational issues, or serving on an advisory council created pursuant to s. 229.58.

2. In lieu of college course credit or inservice points, the applicant may renew a specialization area by passage of a state board approved subject area test or by completion of a department approved summer work program in a business or industry directly related to an area of specialization listed on the certificate. The state board shall adopt rules providing for the approval procedure.

3. In the event an applicant wishes to retain more than two specialization areas on the certificate, the applicant shall be permitted two successive validity periods for renewal of all specialization areas. However, at no time shall fewer than 6 college course credit hours or the equivalent be earned in any one validity period.

(b) A candidate who holds an active certificate and has not been employed in an instructional position by a public school district or a nonpublic school requiring state certification having a Department of Education approved professional orientation program plan at any time during the validity period of such current certificate may renew the certificate by receiving a passing score on the subject area examination or completing the college course credits as provided in paragraph (a); however, if the candidate becomes employed in an instructional position by a public school district or a nonpublic school requiring state certification having a Department of Education approved professional orientation program plan, he shall undergo a performance evaluation by a performance measurement system approved by the department for such purpose during the first 90 days of employment. A candidate who fails to demonstrate satisfactory performance shall continue in the program pursuant to s. 231.17. For the purposes of this paragraph, "instructional position" includes those positions held by certificateholders who are district-level personnel, district-level personnel on special assignment, nonpublic school area administrators and supervisors, school principals, assistant school principals, school board members, instructional personnel on special assignment, and instructional personnel on leave through collective bargaining regarding contracts or school board rule, and other positions held by certificateholders as specified by necessary State Board of Education rules.

(4)~~(3)~~ When any person who holds a valid Florida teacher's certificate is called into or volunteers for actual wartime service or required peacetime military service training, the certificate shall be renewed for a period of time equal to the time spent in military service, provided such person makes proper application and presents substantiating evidence to the department *or the employing school district* regarding such military service.

Section 6. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 231.24, F.S.; providing for renewal of professional education certificates; providing procedures; providing for an application fee; providing duties of the Department of Education;

On motion by Senator Sullivan, by two-thirds vote **SB 1918** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—1

Consideration of **CS for SB 2706** was deferred.

SB 2068—A bill to be entitled An act relating to sexual battery; providing legislative findings and intent; amending s. 794.011, F.S.; clarifying the definition of "consent" with respect to sexual battery offenses; amending s. 794.022, F.S.; providing conforming evidentiary guidelines in sexual battery cases; providing an effective date.

—was read the second time by title.

Amendments were adopted to **SB 2068** to conform the bill to **CS for HB 41**.

Pending further consideration of **SB 2068** as amended, on motion by Senator Brown-Waite, by two-thirds vote **CS for HB 41** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Brown-Waite—

CS for HB 41—A bill to be entitled An act relating to sexual battery; providing legislative findings and intent; amending s. 794.011, F.S.; clarifying the definition of "consent" with respect to sexual battery offenses; creating provisions relating to sexual battery offenses by a law enforcement officer, correctional officer, or correctional probation officer; providing penalties for falsely accusing any such officer; providing an effective date.

—a companion measure, was substituted for **SB 2068** and read the second time by title. On motion by Senator Brown-Waite, by two-thirds vote **CS for HB 41** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motion by Senator Johnson, by two-thirds vote **CS for HB 621** was withdrawn from the Committees on Health Care; and Health and Rehabilitative Services.

On motion by Senator Johnson—

CS for HB 621—A bill to be entitled An act relating to abused persons; amending s. 395.0197, F.S.; providing certain staffing requirements for internal risk management programs; providing an exemption; requiring the investigation and reporting of an allegation of sexual misconduct or sexual abuse at certain health care facilities; prohibiting false allegations; providing a penalty; amending s. 395.3025, F.S.; authorizing release of employee records of a licensed facility to other employers; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 50** and read the second time by title.

Senator Bankhead moved the following amendment which was adopted:

Amendment 1—On page 6, strike line 26 and insert: of limited access employee records *shall* ~~may~~ release information

On motion by Senator Johnson, by two-thirds vote **CS for HB 621** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

Consideration of **SB 280** was deferred.

The Senate resumed consideration of—

CS for CS for SB 2684—A bill to be entitled An act relating to educational facilities; amending s. 235.011, F.S., relating to definitions; clarifying the term "board"; deleting the term "office"; adding the term "public education capital outlay funded projects"; amending s. 235.014, F.S.; transferring functions of the Office of Educational Facilities to the Department of Education and revising and deleting certain functions; creating s. 235.017, F.S.; requiring boards to ensure facility compliance; amending s. 235.02, F.S.; revising provisions relating to use of buildings and grounds, amending s. 235.054, F.S.; deleting certain office approval and revising provisions relating to purchase appraisal; deleting repeal of section; amending s. 235.055, F.S.; revising conditions relating to the construction of facilities on leased property; amending s. 235.056, F.S., relating to lease and lease-purchase of educational facilities and sites; revising provisions relating to approval and compliance with building and safety codes; amending s. 235.06, F.S.; revising provisions relating to inspection of property for compliance with safety and sanitation standards; amending s. 235.14, F.S., relating to emergency drills; amending s. 235.15, F.S., relating to educational plant survey; revising requirements for the conduct of surveys; providing certification requirements prior to release of

funds; amending s. 235.155, F.S., relating to exception to recommendations in survey; amending s. 235.19, F.S.; revising provisions relating to site planning and selection; revising responsibility relating to traffic control and safety devices; amending s. 235.193, F.S.; requiring certain coordination of planning with local governing bodies; amending s. 235.195, F.S., relating to cooperative development and use of facilities, to conform; amending s. 235.198, F.S., relating to cooperative development and use of satellite facilities, to conform; amending s. 235.199, F.S., relating to requirements for funding of vocational education facilities, to conform; amending s. 235.211, F.S.; providing procedures for contracting for construction of facilities; providing requirements for construction and program management entities; revising provisions relating to construction techniques and selection process requirements; authorizing the purchase of certain architectural services; amending s. 235.26, F.S., relating to the State Uniform Building Code for Public Educational Facilities Construction, to conform; deleting standards relating to an energy performance index; providing for contract approval and duties; deleting provisions relating to fallout shelters; revising provisions relating to emergency shelters; requiring a statewide emergency shelter plan; amending s. 235.31, F.S.; revising provisions relating to awarding of contracts; providing definition of "emergency"; amending s. 235.321, F.S.; revising requirements for change orders; amending s. 235.33, F.S.; revising provisions relating to data filed after acceptance of a project; amending s. 235.41, F.S., relating to capital outlay budget request, to conform; amending s. 235.42, F.S., relating to allocation of funds, to conform; amending s. 235.435, F.S., relating to allocation of funds for comprehensive educational plant needs; conforming provisions; providing for allocation from the Public Education Capital Outlay and Debt Service Trust Fund to district school boards; deleting provisions relating to the Increased Utilization Account; requiring district school boards to identify fund source; restricting use of funds; amending s. 236.25, F.S.; increasing authorized district school board capital outlay millage levy; authorizing use of funds for lease and lease-purchase of buses and equipment; amending s. 216.301, F.S.; revising provisions relating to reversion of unexpended balance; amending s. 240.209, F.S., relating to Board of Regents' powers and duties; increasing the Capital Improvement Trust Fund fee; providing for application of revenues to capital outlay purposes; amending s. 240.319, F.S., relating to powers and duties of community college district boards of trustees; authorizing the incurrence of debt; amending s. 240.35, F.S.; providing for an increase in the capital improvement fee and authorizing bonding; creating s. 255.0516, F.S.; providing requirements for bid protests by school boards; revising provisions relating to public notice of plans intended for reuse; authorizing the disposal of described real property used by Florida Agricultural and Mechanical University to house nursing students and other described property; providing for use of proceeds; amending ss. 201.24, 230.23, and 404.056, F.S., to conform; reenacting ss. 228.053(9)(e) and 236.081(1)(i) and (4)(c)3., F.S., relating to funds for the operation of schools, to incorporate the amendment to s. 236.25, F.S., in references thereto; repealing ss. 235.16, 235.018, 235.196, and 235.222, F.S., relating to long-range planning, delegation of review and approval authority, community educational facilities, and repayment of loans; saving ss. 235.001, 235.002, 235.01, 235.011, 235.014, 235.02, 235.04, 235.05, 235.055, 235.056, 235.06, 235.09, 235.14, 235.15, 235.155, 235.18, 235.19, 235.193, 235.195, 235.198, 235.199, 235.211, 235.212, 235.26, 235.30, 235.31, 235.32, 235.321, 235.33, 235.34, 235.40, 235.42, 235.435, 235.44, 236.25(2), and 237.162, F.S., from repeal; providing legislative intent; creating s. 235.0155, F.S.; providing for prototype designs of facilities; providing an appropriation; providing for phase III plan reviews, subject to appropriation; providing an effective date.

—which had been considered and amended this day.

Senator Latvala moved the following amendment which was adopted:

Amendment 14 (with Title Amendment)—On page 72, line 24, strike "2.5 2" and insert: 2

And the title is amended as follows:

In title, on page 3, lines 21 and 22, strike "increasing authorized district school board capital outlay millage levy;"

Senator Latvala moved the following amendment which failed:

Amendment 15—On page 64, line 21, through page 65, line 26, strike all of said lines and insert:

1. For fiscal years 1995-1996 through 1999-2000, 39.5 percent according to the average capital outlay full-time equivalent for the 2 completed fiscal years prior to the computation of the distribution for the affected fiscal years, 59.5 percent according to the growth capital outlay full-time equivalent, and 1 percent according to the eligible increased utilization full-time equivalent. However, the maximum distribution shall be $150 per increased utilization full-time equivalent. Any remaining funds shall be distributed according to the growth capital outlay full-time equivalent.

2. For fiscal year 2000-2001 and all subsequent fiscal years, 40 percent according to the average capital outlay full-time equivalent for the 2 completed fiscal years prior to the computation of the distribution for the affected fiscal year, 60 percent according to the growth capital outlay full-time equivalent.

Senator Johnson moved the following amendment which was adopted:

Amendment 16—On page 86, strike all of lines 15-20 and renumber subsequent sections.

SENATOR BURT PRESIDING

Senator Latvala moved the following amendment which was adopted:

Amendment 17—On page 34, line 14, strike ", *including the Board of Regents,*"

On motion by Senator Latvala, by two-thirds vote **CS for CS for SB 2684** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31 Nays—3

CS for SB 658—A bill to be entitled An act relating to domestic violence; creating s. 784.035, F.S.; prescribing increased penalties for repeated acts of battery constituting domestic violence; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **CS for SB 658** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 2216—A bill to be entitled An act relating to domestic violence; amending s. 741.28, F.S.; revising a definition; amending s. 741.29, F.S.; revising guidelines for liability of a law enforcement officer with respect to alleged domestic violence incidents; amending s. 741.2901, F.S.; revising legislative intent; requiring arrestees to be held in custody under certain circumstances; providing criteria for court determination of bail; amending s. 741.2902, F.S.; revising legislative intent with respect to the judiciary's role; amending s. 741.30, F.S.; revising duties of clerks of court, and guidelines and procedures relating to injunctions and mutual orders of protection; providing for mandatory attendance by respondents in batterers' intervention programs; amending s. 741.31, F.S.; providing guidelines and procedures with respect to violations of injunctions for protection against domestic violence; providing for a report; creating s. 784.047, F.S.; providing criminal penalties for specified violations of injunctions for protection against repeat violence; amending s. 775.084, F.S.; redefining "habitual violent felony offender" to include previous convictions for aggravated stalking; amending s. 775.087, F.S.; including aggravated stalking among specified offenses involving possession or use of weapon to which mandatory prison terms apply; amending s. 776.08, F.S.; redefining "forcible felony" to include aggravated stalking; amending s. 782.04, F.S.; making it a capital felony to commit the unlawful killing of a human being while perpetrating or attempting to perpetrate aggravated stalking; providing penalties for specified murders involving the perpetration or attempt to perpetrate aggravated stalking; amending s. 907.041, F.S., relating to pretrial detention and release; redefining "dangerous crime" to include stalking, aggravated stalking, or acts of domestic violence, or attempting or conspiring to commit such crimes; amending s. 784.046, F.S., relating to actions by victims of repeat violence; redefining "violence" and "repeat violence" to include stalking; allowing the court to enforce injunctions for protection against repeat violence through criminal contempt proceedings; amending s. 790.065, F.S.; including additional criteria for conditional nonapproval of licensure; amending s. 27.51, F.S.; providing for representation by the public defender of indigent subject to criminal contempt sanctions under specified circumstances; providing legislative findings and guidelines with

respect to batterers' intervention programs; establishing the Office for Certification and Monitoring of Batterers' Intervention Programs in the Department of Corrections; providing rulemaking authority to the department and guidelines for policymaking; creating s. 741.281, F.S.; requiring batterers' intervention program attendance for certain domestic violence offenders; amending s. 901.15, F.S.; revising grounds for warrantless arrests; creating the Commission on Minimum Standards for Batterers' Intervention within the Office of the Governor; providing for appointment, terms, duties, and per diem reimbursement and travel expenses of commission members; providing effective dates.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendments which were moved by Senator Silver and adopted:

Amendment 1—On page 3, strike all of lines 24 and 25 and insert: household member by another who is or was residing in the same single dwelling unit.

Amendment 2—On page 5, line 15, strike *"respondent"* and insert: *defendant*

Amendment 3—On page 15, line 11 and on page 31, line 5, strike *"permanent"*

Amendment 4—On page 19, line 30, after *"clerk"* insert: *of the circuit court*

Amendment 5—On page 21, strike all of lines 2-4 and insert: *violation through criminal contempt.*

Amendment 6—On page 34, line 9, strike "permanent"

The Committee on Judiciary recommended the following amendments which were moved by Senator Silver and adopted:

Amendment 7—On page 20, strike line 3 and insert: *to the office operated by the court within the circuit that has been designated by*

Amendment 8—On page 20, line 12, after the period (.) insert: *If the affidavit alleges a crime has been committed, the office assisting the petitioner shall also forward a copy of the petitioner's affidavit to the appropriate law enforcement agency for investigation. No later than 20 days after receiving the initial report, the local law enforcement agency shall complete their investigation and forward the report to the state attorney.*

Amendment 9—On page 20, line 19, strike *"7"* and insert: *30*

Amendment 10—On page 20, line 20, after the comma (,) insert: *or*

Amendment 11—On page 20, strike line 22 and insert: *or prepare both as alternative findings, or file notice that the case remains under investigation or is pending subject to some other action.*

Amendment 12—On page 22, between lines 15 and 16, insert: *The report must be filed with the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court no later than December 1, 1996.*

Senator Hargrett moved the following amendment which was adopted:

Amendment 13 (with Title Amendment)—On page 38, between lines 24 and 25, insert:

Section 22. Subsection (13) of section 402.305, Florida Statutes, 1994 Supplement, is amended to read:

402.305 Licensing standards; child care facilities.—

(13) PLAN OF ACTIVITIES.—Minimum standards shall ensure that each child care facility has and implements a written plan for the daily provision of varied activities and active and quiet play opportunities appropriate to the age of the child. *The written plan must include a program, to be implemented periodically for children of an appropriate age, which will assist the children in preventing and avoiding physical and mental abuse.*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 3, line 12, following the semicolon (;) insert: amending s. 402.305, F.S.; requiring child care facilities to implement programs to assist children in preventing and avoiding physical and mental abuse;

On motion by Senator Silver, by two-thirds vote **CS for SB 2216** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for SB 2422—A bill to be entitled An act relating to taxation; amending s. 212.08, F.S.; providing a partial exemption for charges for electricity used in manufacturing certain tangible personal property for sale; amending s. 212.08, F.S.; removing a prohibition against application of the exemption for machinery and equipment used in new or expanding businesses to printing or publishing firms that export from this state more than a specified percentage of their productive output; amending s. 199.143, F.S.; defining the term "residence" for the purpose of determining whether the intangibles tax is due in the maximum amount of a line of credit or at the time money is borrowed; providing an appropriation for tax refunds for qualified target-industry businesses; providing an effective date.

—was read the second time by title.

Senator McKay moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Subsection (3) of section 199.143, Florida Statutes, is amended to read:

199.143 Future advances.—

(3) If the property subject to the mortgage, deed of trust, or other lien which secures a line of credit is a residence of the borrower *at the time the mortgage, deed of trust, or other lien is created*, then the nonrecurring tax shall be paid as provided in s. 199.135 on the maximum amount of the line of credit and no further nonrecurring tax shall be due on any borrowing under the line of credit. *A residence, for purposes of this subsection, includes only a dwelling unit that is a primary, secondary, or vacation home of the borrower, who is a natural person, and that has been primarily occupied for residential or recreational purposes during the immediately preceding 1-year period by the borrower, the borrower's spouse, or the children of the borrower. A residence does not include any dwelling that is used primarily as a rental unit. Use by a member of the borrower's immediate family for consideration shall be deemed rental of the dwelling unit. Notwithstanding the fact that a dwelling unit is held by a trustee, such dwelling unit may be used as security for a line of credit, pursuant to this subsection, so long as the dwelling unit is within the meaning of the term residence provided in this subsection.*

Section 2. Subsection (1) of section 199.185, Florida Statutes, 1994 Supplement, is amended to read:

199 185 Property exempted from annual and nonrecurring taxes.—

(1) The following intangible personal property shall be exempt from the annual and nonrecurring taxes imposed by this chapter:

(a) Money.

(b) Franchises.

(c) Any interest as a partner in a partnership, either general or limited, other than any interest as a limited partner in a limited partnership registered with the Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended.

(d) Notes, bonds, and other obligations issued by the State of Florida or its municipalities, counties, and other taxing districts, or by the United States Government and its agencies.

(e) Intangible personal property held in trust pursuant to any stock bonus, pension, or profit-sharing plan or any individual retirement account which is qualified under s. 401 or s. 408 of the United States Internal Revenue Code, 26 U.S.C. ss. 401 and 408, as amended.

(f) Intangible personal property held for the purpose of funding payments due or to become due under a retirement plan of a Florida-based corporation exempt from federal income tax under s. 501(c)(6) of the United States Internal Revenue Code, 26 U.S.C., if the primary purpose of the corporation is to support the promotion of professional sports and the retirement plan is either a qualified plan under s. 457 of

the United States Internal Revenue Code or the contributions to the plan, pursuant to a ruling by the United States Internal Revenue Service, are not taxable to plan participants until actual receipt or withdrawal by the participant.

(g)~~(f)~~ Notes and other obligations, except bonds, to the extent that such notes and obligations are secured by mortgage, deed of trust, or other lien upon real property situated outside the state.

(h)~~(g)~~ The assets of a corporation registered under the Investment Company Act of 1940, 15 U.S.C. s. 80a-1-52, as amended.

(i)~~(h)~~ All intangible personal property issued in or arising out of any international banking transaction and owned by a banking organization.

(j)~~(i)~~ Units of a unit investment trust organized under an agreement or declaration of trust and registered under the Investment Company Act of 1940, as amended, whose portfolio of assets consists solely of assets exempt under this section.

Section 3. Subsection (5) of section 206.9925, Florida Statutes, is amended to read:

206.9925 Definitions.—As used in this part:

(5) "Pollutants" includes any petroleum product as defined in subsection (4) as well as pesticides, ammonia, and chlorine; lead-acid batteries, including, but not limited to, such batteries which are a component part of other tangible personal property; ~~and solvents as defined in subsection (6) and solvent mixtures as defined in subsection (7),~~ but the term excludes liquefied petroleum gas, medicinal oils, and waxes. Products intended for application to the human body or for use in human personal hygiene or for human ingestion are not pollutants, regardless of their contents. For the purpose of the tax imposed under s. 206.9935(1), "pollutants" also includes crude oil.

Section 4. Subsection (2) of section 206.9935, Florida Statutes, 1994 Supplement, is amended to read:

206.9935 Taxes imposed.—

(2) TAX FOR WATER QUALITY.—

(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise.

2. The tax shall be imposed only once on each barrel or other unit of pollutant when first produced in or imported into this state. The tax on pollutants first imported into or produced in this state shall be imposed when the product is first sold or first removed from storage. The tax shall be paid and remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, special fuel, aviation fuel, or other pollutants.

(b) The excise tax shall be the applicable rate as specified in subparagraph 1. per barrel or per unit of pollutant, or equivalent measure as established by the department, produced in or imported into the state. If the unobligated balance of the Water Quality Assurance Trust Fund is or falls below $3 million, the tax shall be increased to the applicable rates specified in subparagraph 2. and shall remain at said rates until the unobligated balance in the fund exceeds $5 million, at which time the tax shall be imposed at the rates specified in subparagraph 1. If the unobligated balance of the fund exceeds $12 million, the levy of the tax shall be discontinued until the unobligated balance of the fund falls below $5 million, at which time the tax shall be imposed at the rates specified in subparagraph 1. Changes in the tax rates pursuant to this paragraph shall take effect on the first day of the month after 30 days' notification to the Department of Revenue when the unobligated balance of the fund falls below or exceeds a limit set pursuant to this paragraph.

1. As provided in this paragraph, the tax shall be $1 per lead-acid battery, ~~2.36 cents per gallon of solvents and solvent mixtures,~~ 1 cent per gallon of motor oil or other lubricants, and 2 cents per barrel of petroleum products, pesticides, ammonia, and chlorine.

2. As provided in this paragraph, the tax shall be $2 per lead-acid battery, ~~5.9 cents per gallon of solvents and solvent mixtures,~~ 2.5 cents per gallon of motor oil or other lubricants, 2 cents per barrel of ammonia, and 5 cents per barrel of petroleum products, pesticides, and chlorine.

(c) Any person producing in or importing into the state a liquid mixture and claiming that the mixture is not subject to taxation as a ~~solvent mixture or other~~ pollutant shall bear the burden of demonstrating to the Department of Revenue that the mixture is not a *pollutant* ~~solvent mixture as defined in s. 206.9925(7)~~ or is intended for application to the human body or for use in human personal hygiene or for human ingestion.

(d) The tax on lead-acid batteries imposed by this section is repealed October 1, 1989.

Section 5. Subsections (6), (7), and (8) of section 206.9925, Florida Statutes, subsections (4) and (5) of section 206.9941, Florida Statutes, and subsections (3), (4), and (5) of section 206.9942, Florida Statutes, are repealed.

Section 6. Subsection (17) of section 212.02, Florida Statutes, 1994 Supplement, is amended to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(17) "Sales price" means the total amount paid for tangible personal property, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expense whatsoever. "Sales price" also includes the consideration for a transaction which requires both labor and material to alter, remodel, maintain, adjust, or repair tangible personal property. Trade-ins or discounts allowed and taken at the time of sale shall not be included within the purview of this subsection. *"Sales price" also includes the full face value of any coupon used by a purchaser to reduce the price paid to a retailer for an item of tangible personal property if the retailer will be reimbursed for such coupon, in whole or in part, by the manufacturer of the item of tangible personal property or if it is not practicable for the retailer to determine, at the time of sale, the extent to which reimbursement for the coupon will be made.*

Section 7. It is the intent of the Legislature that the amendment to s. 212.02, Florida Statutes, 1994 Supplement, by this act, is remedial legislation and shall apply retroactively to July 1, 1987.

Section 8. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, 1994 Supplement, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and used by each institution to support women's athletics as provided in s. 240.533(3)(c).

2.a. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.

b. No tax imposed by this section and not actually collected before August 1, 1992, shall be due from any museum or historic building owned by any political subdivision of the state.

3. No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, ~~or~~ on admissions to any of the games of the

1994 World Cup Soccer Tournament, *or on admissions to any semifinal game or championship game of a national collegiate tournament, or an admission to any baseball all-star game.*

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1,500,000 multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

Section 9. Effective October 1, 1995, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, 1994 Supplement, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his permanent place of abode in, this state. This exemption shall not be allowed unless:

a. The purchaser removes *a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or the purchaser removes a nonqualifying* ~~the~~ boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 20 days after completion of the repairs or alterations;

b. The purchaser within *30* ~~90~~ days from the date of *departure* ~~sale~~ provides the department with written proof that the purchaser licensed, registered, *titled,* or documented the boat or airplane outside the state; *if any of these processed are not completed within this period, the purchaser must submit his application;*

c. The purchaser within 10 days of removing the boat or airplane from Florida furnishes the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down or hangaring from outside Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. ~~c.~~ The *selling dealer* ~~seller~~, *within 5 days of the date of sale,* provides to the department a copy of the sales invoice, *closing statement, bills of sale,* and *the original* ~~an~~ affidavit signed by the purchaser *attesting* that he has read the provisions of this section; ~~and~~

e. ~~d.~~ The seller makes *a copy of* the affidavit a part of his record for as long as required by s. 213.35*; and*~~.~~

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies to the selling dealer for a decal that allows 90 days after the date of purchase for removal of the boat. The dealer may grant the request if the conditions specified in the rules of the department are met. The department may issue decals in advance to dealers who regularly sell boats that qualify under the sub-subparagraph based upon the volume of such past sales. This selling dealer shall mark and affix the decals to qualifying boats, in the manner prescribed by the department, prior to delivery of the boat.

(I) The department may charge dealers a fee sufficient to recover the costs of decals issued.

(II) The proceeds from the sale of decals must be deposited into the administrative trust fund that is earmarked to pay for the cost of the decal program.

(III) Decals must display information to identify the boat as a qualifying boat under this subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department may require dealers who purchase decals to file reports with the department and it may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any boat dealer who issues a decal falsely, fails to personally affix a decal, mis-marks a decal, or fails to properly account for decals,

will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(VI) Any nonresident purchaser of a boat who removes a decal prior to permanently removing the boat from the state, or defaces, changes, modifies or alters a decal prior to its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(VII) The department is authorized to adopt rules necessary to administer and enforce this sub-subparagraph and to publish the necessary forms and instructions.

(VIII) The department may adopt emergency rules pursuant to s. 120.54(9), to administer and enforce the provisions of this sub-subparagraph.

If the purchaser fails to remove the *qualifying boat from this state within 90 days after purchase or a nonqualifying* boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, *or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period,* the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department. *The 90-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.*

Section 10. The amendment of section 212.05(1)(a)2., Florida Statutes, by this act shall be reviewed by the Legislature prior to October 1, 1997. If not continued by the Legislature, such amendment shall expire on October 1, 1997, and the text of said subparagraph shall revert to that in existence on September 30, 1995, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of said text which expire pursuant to the provisions of this act.

Section 11. Paragraph (l) of subsection (1) of section 212.05, Florida Statutes, 1994 Supplement, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(l)1. Notwithstanding any other provision of this part, there is hereby levied a tax on the sale, use, consumption, or storage for use in this state of any coin or currency, whether in circulation or not, when such coin or currency:

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency which is legal tender of the United States and which is sold, exchanged, or traded at a rate in excess of its face value, the tax shall be at a rate of 6 percent of the difference between the price at which it is sold, exchanged, or traded and its face value.

3. There are exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

4. With respect to any transaction that involves the sale of coins or currency taxable under this paragraph in which the taxable amount represented by the sale of such coins or currency exceeds $500, the entire amount represented by the sale of such coins or currency is exempt from the tax imposed by this paragraph. The dealer must maintain proper documentation, as prescribed by rule of the department, to identify that portion of a transaction which involves the sale of coins or currency and is exempt under this subparagraph.

Section 12. The executive director of the Department of Revenue is authorized to adopt emergency rules pursuant to section 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision of law, such emergency rules remain effective for 6 months after the date of their adoption. This section shall take effect upon this act becoming a law.

Section 13. Effective January 1, 1996, paragraph (b) of subsection (5) of section 212.08, Florida Statutes, 1994 Supplement, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(b) Machinery and equipment used to increase productive output.—

1. Industrial machinery and equipment purchased for use in new businesses which manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property at fixed locations are exempt from the tax imposed by this chapter upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used in a new business in this state. Such purchases must be made prior to the date the business first begins its productive operations, and delivery of the purchased item must be made within 12 months of that date.

2. Industrial machinery and equipment purchased for use in expanding manufacturing facilities or plant units which manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property at fixed locations in this state are exempt from any amount of tax imposed by this chapter in excess of $100,000 per calendar year upon an affirmative showing by the taxpayer to the satisfaction of the department that such items are used to increase the productive output of such expanded business by not less than 10 percent.

3.a. To receive an exemption provided by subparagraph 1. or subparagraph 2., a qualifying business entity shall apply to the department for a temporary tax exemption permit. The application shall state that a new business exemption or expanded business exemption is being sought. Upon a tentative affirmative determination by the department pursuant to subparagraph 1. or subparagraph 2., the department shall issue such permit.

b. The applicant shall be required to maintain all necessary books and records to support the exemption. Upon completion of purchases of qualified machinery and equipment pursuant to subparagraph 1. or subparagraph 2., the temporary tax permit shall be delivered to the department or returned to the department by certified or registered mail.

c. If, in a subsequent audit conducted by the department, it is determined that the machinery and equipment purchased as exempt under subparagraph 1. or subparagraph 2. did not meet the criteria mandated by this paragraph, *including, if applicable, the criteria set forth in subparagraph 7.,* or if commencement of production did not occur, the amount of taxes exempted at the time of purchase shall immediately be due and payable to the department by the business entity, together with the appropriate interest and penalty, computed from the date of purchase, in the manner prescribed by this chapter.

d. In the event a qualifying business entity fails to apply for a temporary exemption permit or if the tentative determination by the department required to obtain a temporary exemption permit is negative, a qualifying business entity shall receive the exemption provided in subparagraph 1. or subparagraph 2. through a refund of previously paid taxes. No refund may be made for such taxes unless the criteria mandated by subparagraph 1. or subparagraph 2. have been met and commencement of production has occurred.

4. The department shall promulgate rules governing applications for, issuance of, and the form of temporary tax exemption permits; provisions for recapture of taxes; and the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of increased productive output, commencement of production, and qualification for exemption.

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, printing or publishing firms *having less than 50 percent of their productive output from Florida operations for use outside this state*, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property.

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

7. For purposes of the application of this paragraph to printing or publishing firms, the determination of whether less than 50 percent of their productive output from Florida operations are for use outside this state shall be based on the number of units produced during the same period as is described in sub-subparagraph 6.b. Productive output is considered to be for use outside this state when it is delivered, either directly by the producer's vehicles or indirectly through a carrier or the mails, to a location outside this state with no intent to have the printed material returned to this state.

Section 14. Paragraphs (i), (o), and (w) of subsection (7) of section 212.08, Florida Statutes, 1994 Supplement, are amended and paragraphs (gg), (hh), and (ii) are added to that subsection, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(i) Hospital meals and rooms.—Also exempt from payment of the tax imposed by this chapter on rentals and meals are patients and inmates of any hospital or other physical plant or facility designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated, or otherwise dependent on special care or attention. *Residents of a home for the aged are exempt from payment of taxes on meals provided through the facility. A home for the aged is defined as a facility that is licensed or certified in part or in whole under chapter 400 or chapter 651, or that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), s. 232, or s. 236 of the National Housing Act, or other such similar facility designed and operated primarily for the care of the aged.*

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by this part transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1986, as amended, which owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature, and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public. *The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1986, as amended, which provides regular religious services to state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community weekly.*

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code, 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer manpower to organizations designated as charitable institutions *under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph* ~~hereunder~~. *Notwithstanding any other requirement of this section, any blood bank that relies solely upon volunteer donations of blood and tissue, that is licensed under chapter 483, and that qualifies as tax exempt under s. 501(c)(3) of the Internal Revenue Code constitutes a charitable institution and is exempt from the tax imposed by this part.*

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members. The term "educational institutions" also includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer certificate of exemption and which are either an educational institution as defined in this sub-subparagraph, or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code, 1986, as amended.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or s. 501(c)(19) of the Internal Revenue Code.

(w) Newspapers, *magazines,* shoppers, and community newspapers.—Likewise exempt are *newspaper subscriptions and magazine subscriptions that are sold for fundraising purposes by nonprofit organizations exempt from tax pursuant to this chapter or by schools or school related nonprofit organizations and where the product is delivered to the customer by mail* ~~newspapers~~. Also exempt are free, circulated publications which are published on a regular basis, the content of which is primarily advertising, and which are distributed through the mail, home delivery, or newsstands.

(ff) Aircraft repair and maintenance; labor charges; *engines, parts, and equipment.*—There shall be exempt from the tax imposed by this part all labor charges for the repair and maintenance of aircraft of more than 20,000 pounds maximum certified take-off weight. *Also exempt are replacement engines, parts, or equipment used in the repair or maintenance of such aircraft, when the engines, parts, or equipment are to be installed on the aircraft.* ~~Charges for parts and equipment furnished in connection with such labor charges are taxable.~~

(gg) Bullion.—The sale of gold, silver, or platinum bullion, or any combination thereof in a single transaction, is exempt if the sales price exceeds $500.

(hh) Electric energy.—Twenty percent of the charges for electricity used directly and exclusively at a fixed location in this state to operate machinery and equipment that is used to manufacture, process, compound, or produce items of tangible personal property for sale, or to operate pollution-control equipment, maintenance equipment, or monitoring or control equipment used in such operations, is exempt from the tax imposed by this part. The charge for electricity that is used for space heating, lighting, office equipment, air conditioning, areas for shipping tangible personal property, or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonmining, nonseverance, or non-oil-or-gas exploration activity is fully taxable. The exemption provided for in this paragraph applies if the electricity that is used for the exempt purposes is separately metered; if the electricity is not separately metered, 20 percent of the charge for electricity is considered to be for nonexempt purposes. This exemption applies only to industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

(ii) Athletic event sponsors.—There shall be exempt from the tax imposed by this part sales or leases to those organizations that are incorporated pursuant to chapter 617, hold a current exemption from federal corporate income tax liability pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and sponsor golf tournaments sanctioned by the PGA Tour, PGA of America, or the LPGA.

Section 15. With respect to charges for electric energy which are regularly billed on a monthly cycle, the partial sales tax exemption provided for in section 212.08(7)(hh) as created by this act, applies to any bill dated on or after August 1, 1995.

Section 16. The amendment to section 212.08(7)(o), Florida Statutes, 1994 Supplement, by this act applies retroactively to March 1, 1994.

Section 17. Paragraph (g) of subsection (6) of section 212.20, Florida Statutes, 1994 Supplement, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this part shall be as follows:

(g) The proceeds of all other taxes and fees imposed pursuant to this part shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this part shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.664 percent for the remaining months of fiscal year 1992-1993, and 9.653 percent thereafter, of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. After the distribution under subparagraphs 1., 2., and 3., 0.054 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

5. Of the remaining proceeds:

a. Beginning July 1, 1992, $166,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "facility for a new professional sports franchise" *or a "facility for a retained professional sports franchise"* pursuant to s. 288.1162 and $41,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years. Nothing contained herein shall be construed to allow an applicant certified pursuant to s. 288.1162 to receive more in distributions than actually expended by the applicant for the public purposes provided for in s. 288.1162(7). However, a certified applicant shall receive distributions up to the maximum amount allowable and undistributed under this section for additional renovations and improvements to the facility for the franchise without additional certification by the Department of Commerce. *If the retained professional sports franchise fails to remain in the same location until retirement of any indebtedness incurred for capital improvements, all revenue distributed to that retained franchise under this sub-subparagraph must be repaid.*

b. Beginning 30 days after notice by the Department of Commerce to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

6. All other proceeds shall remain with the General Revenue Fund.

Section 18. Section 288 1162, Florida Statutes, 1994 Supplement, is amended to read:

288.1162 Professional sports franchises; spring training franchises; department duties.—

(1) The Department of Commerce shall serve as the state agency for screening applicants for state funding pursuant to s. 212.20 and for certifying an applicant as a "facility for a new professional sports franchise," *a "facility for a retained professional sports franchise,"* or a "new spring training franchise facility."

(2) The Department of Commerce shall develop rules for the receipt and processing of applications for funding pursuant to s. 212.20.

(3) As used in this section, the term:

(a) "New professional sports franchise" means a professional sports franchise that is not based in this state prior to July 1, 1990.

(b) "Retained professional sports franchise" means a professional sports franchise that has a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a facility that has been previously certified under any provision of this section.

(4) Prior to certifying an applicant as a "facility for a new professional sports franchise~~,~~" *or a "facility for a retained professional sports franchise,"* the Department of Commerce must determine that:

(a) A "unit of local government" as defined in s. 218.369 is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 10 years, *or in the case of a retained professional sports franchise, an agreement for use of the facility for a term of at least 20 years.*

(c) The applicant has a verified copy of the approval from the governing authority of the league in which the *new* professional sports franchise exists authorizing the location of the professional sports franchise in this state after July 1, 1990, *or in the case of a retained professional sports franchise, verified evidence that it has had a league-authorized location in this state on or before December 31, 1976.* The term "league" means the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.

(d) The applicant has projections, verified by the Department of Commerce, which demonstrate that the new *or retained* professional sports franchise will attract a paid attendance of more than 300,000 annually.

(e) The applicant has an independent analysis or study, verified by the department, which demonstrates that the amount of the revenues generated by the taxes imposed under part I of chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed $2 million annually.

(f) The municipality in which the facility for a new *or retained* professional sports franchise is located, or the county if the facility for a new *or retained* professional sports franchise is located in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.

(g) The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.

(h) Any applicant previously certified under any provision of this section who has received funding under any such certification is ineligible for an additional certification.

(5) As used in this section, ~~the term~~ "new spring training franchise" means a spring training franchise that is not based in this state prior to July 1, 1990.

(6) Prior to certifying an applicant as a "new spring training franchise facility," the Department of Commerce must determine that:

(a) A "unit of local government" as defined in s. 218.369 is responsible for the construction, management, or operation of the new spring training franchise facility or holds title to the property on which the new spring training franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new spring training franchise for the use of the facility for a term of at least 15 years.

(c) The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the use of the facility by the new spring training franchise.

(d) The proposed facility for the new spring training franchise is located within 20 miles of an interstate or other limited-access highway system.

(e) The applicant has projections, verified by the Department of Commerce, which demonstrate that the new spring training franchise facility will attract a paid attendance of at least 50,000 annually.

(f) The new spring training franchise facility is located in a county that is levying a tourist development tax pursuant to s. 125.0104(3)(b), (c), (d), and (l), at the rate of 4 percent by March 1, 1992, and, 87.5 percent of the proceeds from such tax are dedicated for the construction of a spring training complex.

(7) An applicant certified as a facility for a new professional sports franchise *or a facility for a retained professional sports franchise* or as a new spring training franchise facility may use funds provided pursuant to s. 212.20 only for the public purpose of paying for the construction, reconstruction, or renovation of a facility for a new professional sports franchise, *a facility for a retained professional sports franchise,* or a new spring training franchise facility or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(8) The Department of Commerce shall notify the Department of Revenue of any facility certified as a facility for a new professional sports franchise *or a facility for a retained professional sports franchise* or as a new spring training franchise facility. The department may certify no more than six facilities as facilities for a new professional sports franchise, *as facilities for a retained professional sports franchise,* or as new spring training franchise facilities. The department may make no more than one certification for any facility.

(9) The Department of Revenue may audit as provided in s. 213.34 to verify that the distributions pursuant to this section have been expended as required in this section. Such information is subject to the confidentiality requirements of chapter 213. *If the Department of Revenue determines that the distributions under this section have not been expended as required by this section, it may pursue recovery of such funds pursuant to the laws and rules governing the collection of taxes.*

(10) An applicant shall not be qualified for certification under this section if the franchise formed the basis for a previous certification, unless the previous certification was withdrawn by the facility or invalidated by the department before any funds were distributed pursuant to s. 212.20. This subsection does not disqualify an applicant if the previous certification occurred between May 23, 1993, and May 25, 1993; however, any funds to be distributed pursuant to s. 212.20 for the second certification shall be offset by the amount distributed to the previous certified facility. Distribution of funds for the second certification shall not be made until all amounts payable for the first certification have been distributed.

Section 19. Subsection (37) is added to section 320.01, Florida Statutes, 1994 Supplement, to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(37) "Electric vehicle" means a motor vehicle that is powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current.

Section 20. The license tax for an electric vehicle is the same as that prescribed in section 320.08, Florida Statutes, for a vehicle that is not electric powered.

Section 21. For a period of 5 years after the effective date of this act, the sale of an electric vehicle, as defined in section 320.01, Florida Statutes, is exempt from any tax imposed under part I of chapter 212, Florida Statutes.

Section 22. An insurer may not impose a surcharge on the premium for motor vehicle insurance written on an electric vehicle, as defined in section 320.01, Florida Statutes, if the surcharge is based on a factor such as new technology, passenger payload, weight-to-horsepower ratio, or types of materials, including composite materials or aluminum, used to manufacture the vehicle, unless the Department of Insurance determines from actuarial data submitted to it that the surcharge is justified.

Section 23. Paragraph (f) is added to subsection (2) of section 320.08, Florida Statutes, 1994 Supplement, to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(2) AUTOMOBILES FOR PRIVATE USE.—

(f) Manufacturer's prototype, production, or test vehicles: $25 flat.

Section 24. Paragraph (n) is added to subsection (4) of section 325.203, Florida Statutes, 1994 Supplement, to read:

325.203 Motor vehicles subject to annual inspection; exemptions.—

(4) The following motor vehicles are not subject to inspection:

(n) Electric vehicles.

Section 25. Subsections (7) and (10) of section 376.301, Florida Statutes, 1994 Supplement, are amended, and subsections (24), (25), and (26) are added to that section, to read:

376.301 Definitions of terms used in ss. 376.30-376.319, 376.70, and 376.75.—When used in ss. 376.30-376.319, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

(7) "Drycleaning facility" means a commercial establishment that operates or has at some time in the past operated in whole or in part for the purpose of *drycleaning* ~~cleaning~~ clothing and other fabrics *using* ~~utilizing~~ a process that involves any use of drycleaning solvents. The term "drycleaning facility" includes *the* laundry *operations of a drycleaning facility* ~~facilities that use solvents as part of their cleaning process, uniform rental companies, and linen supply companies~~. *The term does not include a uniform-rental company, a linen-supply company, the laundry operations of a uniform-rental company, or the laundry operations of a linen-supply company.*

(10) "Wholesale supplier" means *the owner of a business located in a wholesale supply* facility that supplies ~~to commercial~~ drycleaning *solvents to a* ~~establishments~~ drycleaning *facility* ~~solvents and other supplies necessary to the operation of such commercial drycleaning establishments~~.

(24) "Real property owner" means the individual or entity that owns the real property, or any individual or entity that has an ownership interest in the real property, including a ground-lease interest, on which a drycleaning facility or a wholesale supply facility is located.

(25) "Wholesale supply facility" means the commercial establishment that supplies drycleaning solvents to a drycleaning facility.

(26) "Reasonable rate" means the rate developed based on exposure to loss and underwriting and administrative costs as determined by the Department of Insurance.

Section 26. Paragraph (d) of subsection (1) of section 376.303, Florida Statutes, 1994 Supplement, is amended to read:

376.303 Powers and duties of the Department of Environmental Protection.—

(1) The department has the power and the duty to:

(d) Establish a registration program for drycleaning facilities and wholesale *supply facilities* ~~suppliers~~.

1. Owners or operators of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ shall, *and real property owners may,* register, *with the department,* each facility owned and in operation ~~with the department~~ by June 30, 1995, *or by a date specified by the department,* pay initial registration fees by December 31, 1995, and pay annual renewal registration fees by December 31, 1996, and each year thereafter~~,~~ in accordance with this subsection. Prior to the adoption of rules regulating the registration of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~, the department shall establish reasonable interim requirements for the registration of such facilities. The department shall identify and notify drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ of the registration requirements by certified mail, return receipt requested. The department shall provide to the Department of Revenue a copy of each applicant's registration materials, within 30 working days of the receipt of the materials. This copy may be in such electronic format as the two agencies mutually designate.

2.a. Owners *or operators* of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ shall submit to the department an initial and an annual renewal registration fee for each drycleaning facility or wholesale *supply facility* ~~supplier~~ owned and in operation. The fee shall be paid within 30 days after receipt of billing by the department.

b.(I) For drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ whose annual gross receipts for the preceding calendar year were less than $350,000, the registration fee shall be $100.

(II) For drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ whose annual gross receipts for the preceding calendar year were $350,000 or more but less than $600,000, the registration fee shall be $250.

(III) For drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ whose annual gross receipts for the preceding calendar year were $600,000 or more, the registration fee shall be $500.

For purposes of this sub-subparagraph, gross receipts for drycleaning facilities shall include all charges imposed at the drycleaning facility and

associated dry drop-off facilities owned by the owner of the drycleaning facility, but shall not include receipts from sales for resale between drycleaning facilities or associated dry drop-off facilities. Gross receipts for wholesale *supply facilities* ~~suppliers shall~~ include all receipts from sales to commercial drycleaning establishments, but shall not include receipts from sales for resale between wholesale *supply facilities* ~~suppliers~~.

c. Revenues derived from registration and renewal fees shall be deposited into the Hazardous Waste Management Trust Fund to be used as provided in s. 376.3078.

Section 27. Subsections (2), (3), (4), and (5) of section 376.3078, Florida Statutes, 1994 Supplement, are amended and subsection (6) is added to that section, to read:

376.3078 Drycleaning facility restoration; funds; uses; liability; recovery of expenditures.—

(2) FUNDS; USES.—

(a) All penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to the implementation of this section and the tax revenues levied, collected, and credited pursuant to ss. 376.70 and 376.75, and registration fees collected pursuant to s. 376.303(1)(d), shall be deposited into the Hazardous Waste Management Trust Fund, to be used upon appropriation as provided in this section. Charges against the funds for drycleaning facility or wholesale supply *facility* site rehabilitation shall be made in accordance with the provisions of this section.

(b) Whenever, in its determination, incidents of contamination by drycleaning solvents related to the operation of drycleaning facilities and wholesale *supply facility* ~~suppliers~~ may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available pursuant to this section to provide for:

1. Prompt investigation and assessment of the contaminated drycleaning facility or wholesale supplier sites.

2. Expeditious treatment, restoration, or replacement of potable water supplies as provided in s. 376.30(3)(c)1.

3. Rehabilitation of contaminated drycleaning facility or wholesale *supply facility* ~~supplier~~ sites, which shall consist of rehabilitation of affected soil, groundwater, and surface waters, using the most cost-effective alternative that is technologically feasible and reliable and that provides adequate protection of the public health, safety, and welfare and minimizes environmental damage, in accordance with the site selection and rehabilitation criteria established by the department under subsection (4), except that nothing in this subsection shall be construed to authorize the department to obligate drycleaning facility restoration funds for payment of costs that may be associated with, but are not integral to, drycleaning facility or wholesale *supply facility* ~~supplier~~ site rehabilitation.

4. Maintenance and monitoring of contaminated drycleaning facility or wholesale *supply facility* ~~supplier~~ sites.

5. Inspection and supervision of activities described in this subsection.

6. Payment of expenses incurred by the department in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from the activities described in this subsection.

7. Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health and Rehabilitative Services in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints and costs associated with public information and education activities.

8. Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with contamination assessment or remedial action.

(c) Drycleaning facility restoration funds may not be used to:

1. Restore sites that are contaminated by solvents normally used in drycleaning operations where the contamination at such sites did not result from the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

2. Restore sites that are contaminated by drycleaning solvents being transported to or from a drycleaning facility or wholesale *supply facility* ~~supplier~~.

3. Fund any costs related to the restoration of any site that has been identified by the United States Environmental Protection Agency to be, or which qualifies as, a Superfund site, or any site that is required to obtain a permit pursuant to the Resource Conservation and Recovery Act as amended.

4. Pay any costs associated with any fine, penalty, or action brought against *the owner or operator of* a drycleaning facility ~~owner or operator~~ or *a* wholesale *supply facility* ~~supplier~~ under state or federal law.

(3) *IMMUNITY FROM* ~~REHABILITATION~~ LIABILITY.—

(a) In accordance with the eligibility provisions of this section, *no real property owner that has complied with paragraph (b), and no owner or operator of a drycleaning facility or a wholesale supply facility that has complied with paragraphs (c) and (d)* ~~no person who owns or operates, or who otherwise could be liable as a result of the operation of, a drycleaning facility, and no wholesale supplier,~~ shall be subject to administrative or judicial action brought by or on behalf of any state or local government or *by or on behalf of* any person to compel rehabilitation or *to* pay for the costs of rehabilitation of environmental contamination resulting from the discharge of drycleaning solvents. Subject to the delays that may occur as a result of the prioritization of sites under paragraph (4)(a) for any *eligible facility* ~~qualified site~~, costs for activities described in paragraph (2)(b) shall be absorbed at the expense of the drycleaning facility restoration funds, without recourse to reimbursement or recovery from *a real property owner who has complied with paragraph (b) or from* the owner or operator of the drycleaning facility or the wholesale *supply facility that has complied with paragraphs (c) and (d)* ~~supplier~~.

(b) With regard to a real property owner, any drycleaning facility or wholesale supply facility at which there exists any contamination by drycleaning solvents is eligible under this subsection regardless of when the drycleaning solvents were discharged or when the drycleaning contamination was discovered if:

1. The real property owner has not willfully concealed from the department the discharge of drycleaning solvents;

2. The real property owner has not denied the department access to the contaminated site for any action under paragraph (2)(b);

3. The real property owner has registered with the department any facility which has been in operation at any time on or after October 1, 1994;

4. The facility has not been identified to qualify for listing, nor is listed, on the National Priority List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as subsequently amended; and

5. The facility is not under an order from the United States Environmental Protection Agency under section 3008(h) of the Resource Conservation and Recovery Act as amended, 42 U.S.C. s. 6928(h), and has not obtained nor is required to obtain a permit for the operation of a hazardous waste treatment facility, a post-closure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984.

(c)~~(a)~~ With regard to drycleaning facilities or wholesale *supply facilities* ~~suppliers~~ that are being operated *on or after October 1, 1994,* ~~as drycleaning facilities or wholesale suppliers at the time the department adopts rules regulating the operation and maintenance of drycleaning facilities or wholesale suppliers,~~ any contamination by drycleaning solvents at such facilities shall be eligible under this subsection regardless of *when the drycleaning solvents were discharged or* when the drycleaning contamination was discovered, *if:*

1. The owner or operator of ~~provided that~~ the drycleaning facility or the wholesale *supply facility registers* ~~supplier: 1. has registered~~ with the department;

2. The owner or operator of the drycleaning facility or the wholesale supply facility has remitted all registration fees under s. 376.303;

3.~~2.~~ *The facility* is determined by the department to be in compliance with the department's rules regulating *drycleaning solvents,* drycleaning facilities, or wholesale *supply facilities, in effect during the time of operation of the drycleaning facility or wholesale supply facility* ~~suppliers, within a reasonable period of time after such rules are adopted~~;

4. ~~3.~~ *The facility* has not been operated *by the owner or operator* in a grossly negligent manner *as specified in paragraph (e)*;

5. ~~4.~~ *The owner or operator* has *purchased* third-party liability insurance *for $1 million of coverage at the time of registration. The owner or operator shall maintain such insurance while operating as a drycleaning facility or wholesale supply facility and provide proof of such insurance to the department upon registration renewal each year thereafter. Such requirement applies only if such insurance becomes available at a reasonable rate and covers liability for contamination that occurred before and after the effective date of the policy* ~~or otherwise meets applicable financial responsibility requirements~~;

6. The facility has not been identified to qualify for listing, nor is listed, on the National Priority List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as subsequently amended;

7. The facility is not under an order from the United States Environmental Protection Agency under section 3008(h) of the Resource Conservation and Recovery Act as amended, 42 U.S.C. s 6928(h), and has not obtained nor is required to obtain a permit for the operation of a hazardous waste treatment facility, a post-closure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984; and

8. ~~and provided that~~ The owner or operator of the drycleaning facility or the wholesale *supply facility* ~~supplier~~ has not willfully concealed the discharge of drycleaning solvents ~~and, where appropriate~~, has remitted all taxes due pursuant to ss. 376.70 and 376.75, *has provided documented evidence of contamination by drycleaning solvents as required by the rules adopted under this section, has reported the contamination before December 31, 2005, and has not denied the department access to the contaminated site for any action under paragraph (2)(b).*

(d) ~~(b)~~ With regard to *owners or operators of a* drycleaning *facility* ~~facilities~~ or *a* wholesale *supply facility* ~~suppliers~~ that *ceased* ~~cease~~ to be operated as *a* drycleaning *facility* ~~facilities~~ or *a* wholesale *supply facility before October 1, 1994,* ~~suppliers prior to the time the department adopts rules regulating the operation and maintenance of drycleaning facilities or wholesale suppliers~~, such *facility at which contamination by drycleaning solvents exists is* ~~facilities shall be~~ eligible under this subsection regardless of *when the drycleaning solvents were discharged or* when the contamination was discovered, *if:* ~~provided that~~

1. The drycleaning facility or wholesale *supply facility was not determined by the department to be out of compliance with a departmental rule which was* ~~supplier:~~

~~1. Was operated in a manner consistent with established drycleaning industry standards and state or federal laws or regulations~~ in effect at the time of operation~~;~~ and *was not* ~~2. Is not determined by the department to have been~~ operated in a grossly negligent manner;

2. The facility has not been identified to qualify for listing, nor is listed, on the National Priority List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as subsequently amended;

3. The facility is not under an order from the United State Environmental Protection Agency under section 3008(h) of the Resource Conservation and Recovery Act as amended, 42 U.S.C. s. 3008(h), and has not obtained nor is required to obtain a permit for the operation of a hazardous waste treatment facility, a post-closure permit, or a permit pursuant to the federal Hazardous and Solid Waste Amendments of 1984; and

4. ~~and provided that~~ The owner or operator of the drycleaning facility or the wholesale *supply facility* ~~supplier~~ has not willfully concealed the discharge of drycleaning solvents, *has provided documented evidence of contamination by drycleaning solvents as required by the rules adopted under this section, has reported the contamination before December 31, 2005, and has not denied the department access to the contaminated site for any action under paragraph (2)(b)* ~~and, where appropriate, has remitted all taxes due pursuant to ss. 376.70 and 376.75~~.

(e) ~~(c)~~ For purposes of this subsection, *the willful discharge of drycleaning solvents onto the soils or into the waters of this state after November 19, 1980, or* the willful concealment of a discharge of drycleaning solvents, or a willful violation of *local,* state, or federal law or regulation regulating the operation of drycleaning facilities or wholesale *supply facilities* ~~suppliers~~, or a willful violation of any drycleaning industry standard that existed prior to the adoption of state or federal laws or regulations regulating the operation of drycleaning facilities or wholesale *supply facilities* ~~suppliers~~, shall be construed to be gross negligence in the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

(f) ~~(d)~~1. With respect to eligible drycleaning solvent contamination reported to the department by June 30, 1997, the costs of activities described in paragraph (2)(b) shall be absorbed at the expense of the drycleaning facility restoration funds, less a $1,000 deductible per incident, which shall be paid by the owner or operator of the drycleaning facility or the wholesale *supply facility* ~~supplier~~.

2. For contamination reported to the department from July 1, 1997, through June 30, 2001, the costs shall be absorbed at the expense of the drycleaning facility restoration funds, less a $5,000 deductible per incident.

3. For contamination reported to the department from July 1, 2001, through December 31, 2005, the costs shall be absorbed at the expense of the drycleaning facility restoration funds, less a $10,000 deductible per incident.

4. For contamination reported after December 31, 2005, no costs will be absorbed at the expense of the drycleaning facility restoration funds.

(g) ~~(e)~~ The provisions of this subsection shall not apply to any site where the department has been denied site access to implement the provisions of this section.

(h) ~~(f)~~ In order to identify those drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ that have experienced contamination resulting from the discharge of drycleaning solvents and to ensure the most expedient rehabilitation of such sites, the owners and operators of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ are encouraged to detect and report contamination from drycleaning solvents related to the operation of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~. The department shall establish reasonable guidelines for the written reporting of drycleaning contamination and shall distribute forms to registrants under s. 376.303(1)(d), and to other interested parties upon request, to be used for such purpose.

(i) ~~(g)~~ A report of drycleaning solvent contamination at a drycleaning facility or wholesale *supply facility* ~~supplier~~ made to the department by any person in accordance with this subsection, or any rules promulgated pursuant hereto, may not be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.

(j) A real property owner or an owner or operator of a drycleaning facility or wholesale supply facility seeking eligibility under this subsection shall submit an application for determination of eligibility to the department on a form provided by the department. After reviewing the application, the department shall notify the applicant in writing of its intent to approve or deny eligibility for the facility. If the department intends to deny eligibility, the notice must contain a detailed explanation of the reasons for the denial, including a discussion of the specific requirements of this section which the department believes have not been established. The department's determination approving or denying eligibility shall constitute an agency action that is subject to chapter 120. For purposes of s. 120.57, the real property owner and the owner or operator of a drycleaning or wholesale supply facility that is the subject of a decision by the department with regard to eligibility are deemed to be parties whose substantial interests are determined by the department's decision to approve or deny eligibility. A determination of eligibility or ineligibility is not affected by the subsequent conveyance of the ownership of the drycleaning facility, wholesale supply facility, or the real property on which such a facility is located. A drycleaning facility or wholesale supply facility that is not eligible under this subsection does not become eligible as a result of the conveyance of the ownership of such drycleaning facility or wholesale supply facility to another owner.

(k) A real property owner is not prohibited from conducting site rehabilitation activities described in this section, and in rules of the department, either through his own personnel or through responsible response action contractors or subcontractors. Upon such initiation of site rehabilitation, whether commenced before or on or after the effec-

tive date of this act, the real property owner is immune from liability in accordance with subsection (3), whether or not the facility has been determined to be eligible by the department.

(l) Except as provided in paragraph (k), the department may revoke eligibility of any person for immunity who fails to continue to comply with the conditions for eligibility set forth in paragraphs (b), (c), and (d). If a real property owner or an owner or operator of a drycleaning or wholesale supply facility fails to continue to comply with those conditions for eligibility, the department shall notify the real property owner and the owner of the facility in writing by certified mail of the particular deficiency. The real property owner and the owner of the facility shall have 45 days to correct any such deficiency. If, after 45 days, a deficiency has not been corrected, the department shall notify the real property owner and the owner of the facility of its intent to revoke eligibility for immunity under this section and shall state the reasons for the revocation. The department's notice of intent to revoke is subject to chapter 120, and final revocation of eligibility for immunity may not occur until entry of a final order by the department.

(m) If the funding for the drycleaning contamination rehabilitation program is eliminated, this subsection is void.

(n)~~(h)~~ The provisions of this subsection shall not apply to drycleaning facilities owned or operated by the state or Federal Government.

(o)~~(i)~~ Due to the value of Florida's potable water, it is the intent of the Legislature that the department initiate and facilitate as many cleanups as possible utilizing the resources of the state, local governments, and the private sector. The department is authorized to adopt necessary rules and enter into contracts to carry out the intent of this subsection.

(p)~~(j)~~ It is not the intent of the Legislature that the state become the owner or operator of a drycleaning facility or wholesale *supply facility* ~~supplier~~ by engaging in state-conducted cleanup.

(4) SITE SELECTION AND REHABILITATION CRITERIA.—It is the intent of the Legislature that drycleaning facility restoration funds in the Hazardous Waste Management Trust Fund be used to fund the rehabilitation of sites that pose a significant threat to the public health, safety, or welfare.

(a) The department shall adopt rules to establish priorities for state-conducted rehabilitation at contaminated drycleaning facility or wholesale *supply facility* ~~supplier~~ sites based upon factors that include, but need not be limited to:

1. The degree to which human health, safety, or welfare may be affected by exposure to the contamination.

2. The size of the population or area affected by the contamination.

3. The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water.

4. The effect of the contamination on the environment.

Drycleaning facility restoration funds shall then be obligated for activities described in paragraph (2)(b) at individual sites in accordance with the criteria established in this subsection. However, nothing in this paragraph shall be construed to restrict the department from modifying the priority status of a drycleaning facility or wholesale *supply facility* ~~supplier~~ rehabilitation site where conditions warrant.

(b) The department shall establish criteria by rule for the purpose of determining, on a case-by-case basis, the rehabilitation program tasks that comprise a site rehabilitation program and the level at which a rehabilitation program task and a site rehabilitation program may be deemed completed. Criteria for determining completion of site rehabilitation program tasks and site rehabilitation programs shall be based upon the factors set forth in paragraph (a) and the following additional factors:

1. Individual site characteristics, including natural rehabilitation processes.

2. Applicable state water quality standards.

3. Whether deviation from state water quality standards or from established criteria is appropriate, based upon the degree to which the desired rehabilitation level is achievable and can be reasonably and cost-effectively implemented within available technologies or control strategies; except that, where a state water quality standard is applicable, such deviation may not result in the application of standards more stringent than said standard.

(c) It is recognized that restoration of groundwater resources contaminated with certain drycleaning solvents, such as perchloroethylene, may not be achievable using currently available technology. In situations where the use of available technology is not anticipated to achieve water quality standards, the department, at its discretion, may use innovative technology that has been field-tested through a federal innovative technology program and that has engineering and cost data available.

(d) Nothing in this subsection shall be construed to restrict the department from temporarily postponing completion of any site rehabilitation program for which drycleaning facility restoration funds are being expended whenever such postponement is deemed necessary in order to make funds available for rehabilitation of a drycleaning facility or wholesale *supply facility* ~~supplier~~ contamination site with a higher priority status.

(e) If the department or the real property owner completes rehabilitation in accordance with rules adopted under this chapter, neither the department nor the real property owner is liable for taking any further action that is required by any private party or local, state, or federal government entity.

(5) DEPARTMENTAL DUTY TO SEEK RECOVERY AND REIMBURSEMENT.—

(a) Except as provided in subsection (3) and as otherwise provided by law, the department shall recover from any person causing or having caused the discharge of drycleaning solvents in relation to the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~, jointly and severally, all sums owed or expended from drycleaning facility restoration funds, pursuant to s. 376.308, except that the department may decline to pursue such recovery if it finds the amount involved to be too small or the likelihood of recovery too uncertain.

(b) Except as provided in subsection (3) and as otherwise provided by law, it is the duty of the department in administering the drycleaning facility restoration funds to diligently pursue the reimbursement to the Hazardous Waste Management Trust Fund of any sum expended from the fund for rehabilitation in accordance with the provisions of this section, unless the department finds the amount involved to be too small or the likelihood of recovery too uncertain. For the purposes of s. 95.11, the limitation period within which *any person may* ~~to~~ institute an action to recover such sums, *or to recover any other sums associated with the remediation of contamination by drycleaning solvents,* shall commence on the last date on which any such sums were expended, and not the date that the discharge occurred.

(6) REQUIREMENT FOR DRYCLEANING FACILITIES.—It is the intent of the Legislature that the following drycleaning solvent containment protocols be required of the owners or operators of drycleaning facilities, as follows:

(a) Owners or operators of drycleaning facilities shall, by January 1, 1997, install dikes or other containment structures around each machine or item of equipment in which drycleaning solvents are used and around any area in which solvents or wastes containing solvents are stored. Such dikes or containment structures must be capable of containing 110 percent of the capacity of each machine and each storage container.

(b) For drycleaning facilities that commence operating after January 1, 1996, the owners or operators of such facilities shall, before commencing operations, install beneath each machine or item of equipment in which drycleaning solvents are used a rigid and impermeable containment vessel capable of containing 110 percent of the capacity of the total tank capacity of each machine.

(c) Notwithstanding subsection (3), the owner of a drycleaning facility or wholesale supply facility at which there is a spill of more than 1 quart of drycleaning solvent outside a containment structure on or after July 1, 1995, shall report the spill to the department through the warning-point telephone line immediately upon the discovery of such spill, and shall immediately initiate and complete response actions to abate the source of the spill, removing free product from all indoor and outdoor surface areas, removing free and dissolved product from any septic

tank or catch basin in which the solvent has accumulated, and removing affected soils, if any. Costs incurred by an owner for such response actions, up to a maximum of $10,000 in the aggregate for all spills at a single facility, shall be credited to the owner as against future gross receipts tax set forth in s. 376.70 and, in the case of the owner of a wholesale supply facility, as against future tax on production or importation of perchloroethylene, as set forth in s. 376.75.

Section 28. Subsections (1), (2), (3), and (5) of section 376.3079, Florida Statutes, 1994 Supplement, are amended to read:

376.3079 Third-party liability insurance.—

(1) It is the intent of the Legislature that if necessary the department assist owners of drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ in obtaining third-party liability insurance coverage if such facilities ~~or suppliers~~ are regulated by and in compliance with the department's rules relating to drycleaning facilities and wholesale *supply facilities* ~~suppliers~~. In order to assist drycleaning facilities and wholesale *supply facilities* ~~suppliers~~ in obtaining such insurance coverage, the department may contract with an insurance company, a reinsurance company, or other insurance consultant to issue third-party liability policies. If such third-party insurance is not available, the department shall not provide such insurance from state funds.

(2)(a) Any owner or operator of a drycleaning facility or wholesale *supply facility* ~~supplier~~ may be eligible for third-party liability insurance coverage if the facility is registered with the department pursuant to s. 376.303(1)(d) and is otherwise in compliance with the department's rules relating to drycleaning facilities or wholesale *supply facilities* ~~suppliers~~.

(b) The following drycleaning facilities or wholesale *supply facilities* ~~suppliers~~ are not eligible for state-assisted third-party liability insurance:

1. Sites owned or operated by the state or Federal Government.

2. Sites where the owner or operator has denied the department site access or where the facility has been determined not to be in compliance with the department's rules relating to drycleaning facilities or wholesale *supply facilities* ~~suppliers~~.

(c) Third-party liability insurance coverage may not be provided by the state contracted insurance carrier to cover third-party claims relating to damages caused by contamination that was discovered prior to the effective date of the insured's policy.

(3) For *the* purposes of *s. 376.3078 and* this section, the term:

(a) "Third-party liability" means the insured's liability, other than for site rehabilitation costs, for bodily injury or property damage caused by an incident of contamination related to the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

(b) "Incident" means any sudden or gradual discharge of drycleaning solvents arising from the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~ that results in a need for site rehabilitation or results in bodily injury or property damage neither expected nor intended by the ~~drycleaning facility~~ owner or operator *of the drycleaning facility* or wholesale *supply facility* ~~supplier~~.

(5) It is the express intent of the Legislature that the provisions of this section shall not provide the basis for any claim against the department, the Hazardous Waste Management Trust Fund, or against the Water Quality Assurance Trust Fund for bodily injury or property damages caused by an incident of contamination related to the operation of a drycleaning facility or wholesale *supply facility* ~~supplier~~.

Section 29. Subsection (1) of section 376.308, Florida Statutes, 1994 Supplement, is amended to read:

376.308 Liabilities and defenses of facilities.—

(1) In any suit instituted by the department under ss. 376.30-376.319, it is not necessary to plead or prove negligence in any form or matter. The department need only plead and prove that the prohibited discharge or other polluting condition has occurred. *Except as provided in ss. 376.305(7), 376.3071, 376.3072, and 376.3078(3),* the following persons shall be liable to the department for any discharges or polluting condition:

(a) Any person who caused a discharge or other polluting condition or who owned or operated the facility, or the stationary tanks or the nonresidential location which constituted the facility, at the time the discharge occurred.

(b) In the case of a discharge of hazardous substances, all persons specified in s. 403.727(4).

(c) In the case of a discharge of petroleum, petroleum products, or drycleaning solvents, the owner *or operator* of the *drycleaning facility or the wholesale supply* facility, unless the owner can establish that he acquired title to property contaminated by the activities of a previous owner or operator or other third party, that he did not cause or contribute to the discharge, and that he did not know of the polluting condition at the time he acquired title. If *such* ~~the~~ owner acquired title ~~subsequent to July 1, 1992, or, in the case of a drycleaning facility or wholesale supplier,~~ subsequent to July 1, 1994, he must also establish by a preponderance of the evidence that he undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice in an effort to minimize liability. The court or hearing officer shall take into account any specialized knowledge or experience on the part of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection. In an action relating to a discharge of petroleum, petroleum products, or drycleaning solvents under chapter 403, the defenses and definitions set forth herein shall apply.

Section 30. Paragraph (a) of subsection (5) of section 376.313, Florida Statutes, 1994 Supplement, is amended to read:

376.313 Nonexclusiveness of remedies and individual cause of action for damages under ss. 376.30-376.319.—

(5)(a) In any civil action against *the ineligible owner of real property on which* ~~the owner or operator of~~ a drycleaning facility or a wholesale *supply facility is located or an ineligible owner or operator of such facility* ~~supplier brought after the date established by rule by which drycleaning facilities or wholesale suppliers must be in compliance with department rules,~~ for damages arising from the discharge of drycleaning solvents from a drycleaning facility or wholesale *supply facility* ~~supplier~~, the provisions of subsection (3) shall not apply if it can be proven that, at the time of the discharge, the alleged damages resulted solely from a discharge from a drycleaning facility or wholesale *supply facility* ~~supplier~~ that was *in compliance with department rules regulating drycleaning facilities or wholesale supply facilities* ~~operated and maintained in a manner consistent with the operation and maintenance standards established for such facilities under the rules of the department~~.

Section 31. Subsections (1) and (2) of section 376.70, Florida Statutes, 1994 Supplement, are amended to read:

376.70 Tax on gross receipts of drycleaning facilities.—

(1) ~~Beginning October 1, 1994,~~ There is ~~hereby~~ levied a gross receipts tax on *each drycleaning facility, as defined in s. 376.301,* ~~every person~~ for the privilege of engaging in the business of laundering and drycleaning clothing and other fabrics in this state ~~and of engaging in the business of providing uniform rentals or linen supply services in this state~~. The tax ~~shall be at a~~ rate *is* ~~of~~ 1.5 percent of all charges imposed *by the drycleaning facility* for the drycleaning or laundering of clothing or other fabrics ~~and all charges imposed for uniform rental or linen supply services~~. Beginning January 1, 2004, the tax rate *is* ~~shall be~~ 2 percent *of such charges*. Gross receipts from coin-operated laundry machines and from laundry done on a wash, dry, and fold basis *are* ~~shall~~ not ~~be~~ subject to tax.

(2) *Each drycleaning facility* ~~Any person~~ imposing a charge for the drycleaning or laundering of clothing or other fabrics ~~or a charge for uniform rental or linen supply services~~ is required to register with the Department of Revenue and become licensed for the purposes of this section. *Drycleaning facilities* ~~Persons~~ operating at more than one location are ~~only~~ required to have *only one* ~~a single~~ registration. The fee for registration is $30.

Section 32. The registration fee and the gross receipts tax imposed under section 376.70, Florida Statutes, do not apply to uniform-rental companies or linen-supply companies. Any such fee or tax that was imposed on and was remitted, collected, or held in escrow by a uniform-rental company or a linen-supply company on or after October 1, 1994, and before the effective date of this act is not payable to the State of Florida, and, if remitted, must be refunded by the Department of Revenue.

Section 33. Effective October 1, 1995, section 376.75, Florida Statutes, 1994 Supplement, is amended to read:

376.75 Tax on production or importation of perchloroethylene.—

(1) Beginning October 1, *1995* ~~1994~~, a tax *of $5 per gallon* is levied on the *sale or transfer of* ~~privilege of producing in, importing into, or causing to be imported into the state~~ perchloroethylene (tetrachloroethylene) *in this state to a drycleaning facility located in this state or the import of perchloroethylene into this state by a drycleaning facility.* ~~A tax of $5 per gallon is levied on each gallon of perchloroethylene when first imported into or produced in the state. The tax is imposed when transfer of title or possession, or both, of the product occurs in this state or when the product commingles with the general mass of this state.~~

(2) Any person producing in, importing into, or causing to be imported into, *or selling or transferring in,* this state perchloroethylene ~~for sale, use, or otherwise~~ must register with the Department of Revenue and become licensed for the purposes of remitting the tax pursuant to, *or providing information required by,* this section. Such person must register as *a seller of perchloroethylene, a user of perchloroethylene in drycleaning facilities, or a user of perchloroethylene for purposes other than drycleaning* ~~either a producer or importer of perchloroethylene~~. Persons operating at more than one location are only required to have a single registration. The fee for registration is $30. Failure to timely register is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The tax imposed by this section *during any calendar month* is due *and payable* ~~on the first day of the month succeeding the month of production, importation, or removal from a storage facility and must be paid~~ on or before the 20th day *following the end of such calendar* ~~of each~~ month. Tax shall be reported on forms and in the manner prescribed by the Department of Revenue by rule.

(4) Any person subject to taxation under this section or any person who sells tax-paid perchloroethylene, other than a retail dealer, must separately state the amount of such tax paid on any charge ticket, sales slip, invoice, or other tangible evidence of the sale or must certify on the sales document that the tax required pursuant to this section has been paid.

(5) All perchloroethylene imported, produced, or sold in this state is presumed to be subject to the tax imposed by this section. Any person~~, except the final retail consumer,~~ who has purchased perchloroethylene for ~~sale,~~ use~~, consumption, or distribution~~ in *such person's drycleaning facility in* this state must document that the tax imposed by this section has been paid or must pay such tax directly to the Department of Revenue in accordance with subsection (3).

(6) For purposes of this section, to demonstrate that perchloroethylene is not sold or transferred to a drycleaning facility for eventual use in a drycleaning facility in this state, a person may rely on a certificate signed under penalty of perjury by a transferee of the perchloroethylene stating that the transferee does not own or operate a drycleaning facility or the transferee will not use the perchloroethylene in a drycleaning facility in this state. Any producer, importer, seller, or other transferor of perchloroethylene who is required to register in accordance with subsection (2), but who does not make any taxable sales or taxable transfers during a year, shall file with the Department of Revenue a form containing the quantity of perchloroethylene sold or transferred, a statement indicating that all sales were exempt from tax, and such other information as the Department of Revenue may prescribe.

(7)~~(6)~~ The Department of Revenue ~~may authorize a quarterly return and payment when the tax remitted by the licensee for the preceding quarter did not exceed $100;~~ may authorize a semiannual return and payment when the tax remitted by the licensee for the preceding 6 months did not exceed $200; and may authorize an annual return and payment when the tax remitted by the licensee for the preceding 12 months did not exceed $400.

(8)~~(7)~~ The tax imposed by this section shall be reported to the Department of Revenue. The payment shall be accompanied by such forms as the Department of Revenue prescribes. The proceeds of the tax, after deducting the administrative costs incurred by the Department of Revenue in administering, auditing, collecting, distributing, and enforcing the tax, shall be transferred by the Department of Revenue into the Hazardous Waste Management Trust Fund and shall be used as provided in s. 376.3078. For the purposes of this section, the proceeds of the tax include all funds collected and received by the Department of Revenue, including interest and penalties on delinquent taxes.

(9)~~(8)~~(a) The Department of Revenue shall administer, collect, and enforce the tax authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, except as provided in this section. The provisions of part I of chapter 212 regarding the authority to audit and make assessments, the keeping of books and records, and interest and penalties on delinquent taxes shall apply. The tax shall not be included in the computation of estimated taxes pursuant to s. 212.11, nor shall the dealer's credit for collecting taxes or fees in s. 212.12 apply to the tax. The provisions of s. 212.07(4) shall not apply to the tax imposed by this section.

(b) The Department of Revenue, under the applicable rules of the Public Employees Relations Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The Department of Revenue is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(c) The Department of Revenue is authorized to establish audit procedures and to assess delinquent taxes.

(10)~~(9)~~ The Legislature declares that the failure to promptly implement the provisions of this section would present an immediate threat to the welfare of the state. Therefore, the executive director of the Department of Revenue is authorized to adopt emergency rules pursuant to s. 120.54(9) to implement this section. Notwithstanding any other provision of law, such emergency rules shall remain effective for 180 days from the date of adoption. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of this section shall not be subject to a s. 120.54(4) rule challenge or a s. 120.54(17) drawout proceeding, but, once adopted, shall be subject to a s. 120.56 invalidity challenge. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13).

(11)~~(10)~~ *If perchloroethylene on which tax has been paid is exported from this state or acquired for purposes other than use in a drycleaning facility in this state for sale, resale, or other transfer for such use, the person that paid the tax to the Department of Revenue may apply for a refund of such tax paid. The person applying for the refund or credit must refund such tax to the person who incurred the burden of the tax before the claim to the state for refund or credit will be approved.* ~~Perchloroethylene exported from the first storage facility at which it is held in this state by the producer or importer is exempt from the tax pursuant to this section. Anyone exporting perchloroethylene on which tax has been paid may apply for a refund or credit. The Department of Revenue may require such information as it deems necessary in order to approve the refund or credit.~~

Section 34. The sum of $3.5 million is appropriated for fiscal year 1995-1996 from the General Revenue Fund to the Economic Development Incentives Account of the Economic Development Trust Fund within the Department of Commerce to be used for the tax refund program for qualified target-industry businesses as specified in section 288.106, Florida Statutes.

Section 35. Except as otherwise provided in this act, this act shall take effect July 1, 1995.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to taxation; amending s. 199.143, F.S.; following the term "residence" for the purpose of determining whether the intangibles tax is due in the maximum amount of a line of credit or at the time money is borrowed; amending s. 199.185, F.S.; exempting property held for the purpose of funding payments under a retirement plan of corporations meeting specified criteria from payment of intangible property taxes; amending s. 206.9925, F.S.; redefining the term "pollutants" to omit solvents and solvent mixtures; amending s. 206.9935, F.S.; removing solvents and solvent mixtures from application of the tax for water quality; repealing s. 206.9925(6), (7), (8), F.S., which defines the terms "solvents," "solvent mixture," and "consume"; repealing s. 206.9941(4), (5), F.S., which specifies certain exemptions from the tax; repealing s. 206.9942(3), (4), (5), F.S., which provides for refunds and credits under the tax; amending s. 212.02, F.S., redefining the term "sales price" to include the full face value of certain manufacturers coupon; providing for retroactivity; amending s. 212.04, F.S., exempting from taxation certain collegiate tournament games and baseball all-star games; amending s.

212.05, F.S.; substantially revising provisions which specify conditions under which the purchase of a boat or airplane by a nonresident is not subject to said tax; extending the period within which the boat or airplane must be removed from the state after purchase and specifying said period may not be tolled; revising the dates by which the purchaser and seller must provide certain information to the Department of Revenue and requiring such persons to supply additional information; providing liability for tax and penalty if a purchaser fails to supply required information; requiring the selling dealer to affix decals to certain boats; providing duties of the department with respect to development of decals and sale to dealers; providing for use of the proceeds; providing duties of dealers; providing liability for tax and penalties applicable to dealers and purchasers who attempt to evade the tax; providing for rules and emergency rules; providing for future repeal; amending s. 212.05, F.S., exempting transactions in excess of $500 from the tax on the sale of coins or currency; amending s. 212.08, F.S.; providing a partial exemption for charges for electricity used in manufacturing certain tangible personal property for sale; amending s. 212.08, F.S.; removing a prohibition against application of the exemption for machinery and equipment used in new or expanding businesses to printing or publishing firms that export from this state more than a specified percentage of their productive output; amending s. 212.08, F.S.; redefining the term "charitable institutions" for the purposes of tax exemption; including purchases of certain meals provided by a home for the aged; including additional organizations; including blood banks meeting specific criteria; redefining the term "religious institutions," for purposes of tax exemption, to include certain organizations that provide regular religious services to Florida State prisoners; exempting newspaper and magazine subscriptions sold by certain nonprofit organizations or schools for fundraising purposes from the tax; providing an exemption for replacement engines, parts, and equipment used in the repair or maintenance of certain aircraft; exempting sales of gold, silver, or platinum bullion in excess of $500; providing a partial exemption for charges for electricity used in manufacturing certain tangible personal property for sale; including certain nonprofit or tax-exempt organizations that sponsor certain athletic events; providing for retroactivity; amending ss. 212.20 and 288.1162, F.S.; providing for certification of such facilities by the Department of Commerce; providing procedures and requirements for certification; prohibiting certain previously certified applicants from additional certification; providing for a monthly distribution of a portion of sales tax revenues to such certified facilities for a specified period; amending s. 320.01, F.S.; defining the term "electric vehicle"; specifying the license tax for such vehicles; exempting sales of such vehicles from sales and use taxes for a specified period; prohibiting insurers from imposing surcharges on insurance premiums for such vehicles unless the Department of Insurance finds the surcharges justified; amending s. 320.08, F.S.; prescribing license taxes for manufacturer's prototype, production, or test vehicles; amending s. 325.203, F.S.; exempting electric vehicles from annual inspection requirements; amending s. 376.301, F.S.; revising and adding definitions; amending s. 376.303, F.S.; revising the powers and duties of the Department of Environmental Protection pertaining to the registration program for drycleaning facilities and wholesale supply facilities; amending s. 376.3078, F.S.; revising the requirements pertaining to the drycleaning facility restoration fund; providing immunity under certain circumstances; providing solvent containment protocols for owners or operators of drycleaning facilities; providing procedures with respect to a spill of drycleaning solvent; providing for a tax credit for costs incurred in a response action to a spill; amending s. 376.3079, F.S.; revising the third-party liability insurance provision; amending s. 376.308, F.S.; revising the liability of facilities; amending s. 376.313, F.S.; revising the provisions for civil actions against facilities; amending s. 376.70, F.S.; providing that uniform-rental and linen-supply companies are not subject to the tax imposed on gross receipts of drycleaning facilities; requiring the Department of Revenue to refund taxes and fees that have been remitted; amending s. 376.75, F.S.; revising and clarifying provisions imposing a tax on production or importation of perchloroethylene; providing penalties; providing an effective date.

Senator Casas moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with Title Amendment)—On page 17, between lines 4 and 5, insert:

Section 13. Subsection (2) of section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(2) Notwithstanding any other provision of law, the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor shall be equal to the sum of 1.0665 for beverage items, or 1.0645 for food items, *except that, for counties having a 6.5-percent sales tax rate, the divisor must be equal to the sum of 1.0689 for beverage items or 1.0682 for food items, and, for counties having a 7-percent sales tax rate, the divisor must be equal to the sum of 1.0743 for beverage items or 1.0735 for food items* ~~plus any applicable local option tax authorized by this part, expressed as a decimal~~. *For the purposes of s. 212.20(6)(b), the proceeds of discretionary sales surtaxes on food and beverage items sold through vending machines must be calculated based on information reported under paragraph (4)(a). In this calculation, the applicable state tax rates must be 6.65 percent for beverage items and 6.45 percent for food items.* However, the amount of the tax to be paid on natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices, or natural vegetable juices shall be calculated using the divisor that is specified for food items.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 69, line 5, after the semicolon (;) insert: amending s. 212.0515, F.S.; revising the requirements for calculating the tax on sales of foods and beverages through vending machines in counties that levy a local option tax;

Senator McKay moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with Title Amendment)—On page 28, line 6, through page 29, line 12, strike all of said lines and insert:

(hh) Electric energy.—Charges for electricity used directly and exclusively at a fixed location in this state to operate machinery and equipment that is used to manufacture, process, compound, or produce items of tangible personal property for sale, or to operate pollution control equipment, maintenance equipment, or monitoring or control equipment used in such operations are exempt from the tax imposed by this part. The charge for electricity that is used for space heating, lighting, office equipment, air conditioning, areas for shipping tangible personal property, or any other nonmanufacturing, nonprocessing, noncompounding, nonproducing, nonmining, nonseverance, or non-oil-or-gas exploration activity is fully taxable. The exemption provided for herein is applicable if the electricity that is used for the exempt purposes is separately metered, or if it is not separately metered, 20 percent of the charge for electricity shall be considered to be for nonexempt purposes. This exemption only applies to industries classified under SIC Industry Major Group Numbers 10, 12, 13, 14, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, and 39. As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President. Such exemption shall be applied as follows:

1. Beginning on or after July 1, 1995, and prior to July 1, 1996, 20 percent of the direct cost of such electricity shall be exempt.

2. Beginning on or after July 1, 1996, and prior to July 1, 1997, 40 percent of the direct cost of such electricity shall be exempt.

3. Beginning on or after July 1, 1997, and prior to July 1, 1998, 60 percent of the direct cost of such electricity shall be exempt.

4. Beginning on or after July 1, 1998, and prior to July 1, 1999, 80 percent of the direct cost of such electricity shall be exempt.

5. Beginning on or after July 1, 1999, and prior to July 1, 2000, 100 percent of the direct cost of such electricity shall be exempt.

6. The changes in the sales tax vote provided for in this paragraph shall apply to any bill for charges for electricity dated on or after August 1 of each year.

7. This paragraph shall expire on June 30, 2000.

The Revenue Estimating Conference, created under s. 216.136(3), shall prepare and submit to the Governor, the Speaker of the House of Repre-

sentatives, the President of the Senate, and the minority leaders of both the House and the Senate a report by December 1, 1999. The report shall provide information to be used in making a determination whether this exemption has provided sufficient incentives to the exempted manufacturing industries such that the loss of revenue to the state from this exemption and the costs incurred by the state from growth in such industries have been recovered by the gains in economic development in the state from growth in such industries which is attributable to this exemption.

(ii) Athletic event sponsors.—There shall be exempt from the tax imposed by this part sales or leases to those organizations that are incorporated pursuant to chapter 617, hold a current exemption from federal corporate income tax liability pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and sponsor golf tournaments sanctioned by the PGA Tour, PGA of America, or the LPGA.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 69, line 8, after the semicolon (;) insert: providing an implementation schedule; requiring a report from the Revenue Estimating Conference;

Senator Gutman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C (with Title Amendment)—On page 19, line 17, through page 21, line 13, strike all of said lines and insert:

5. The exemptions provided in subparagraphs 1. and 2. do not apply to machinery or equipment purchased or used by electric utility companies, communications companies, phosphate or other solid minerals severance, mining, or processing operations, oil or gas exploration or production operations, ~~printing or publishing firms~~, any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation, or any firm which does not manufacture, process, compound, or produce for sale, or for exclusive use in spaceport activities as defined in s. 212.02, items of tangible personal property. *The exemptions provided in subparagraphs 1. and 2. shall apply to printing and publishing firms only to the extent provided in subparagraph 7.*

6. For the purposes of the exemptions provided in subparagraphs 1. and 2., these terms have the following meanings:

a. "Industrial machinery and equipment" means "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code, provided "industrial machinery and equipment" shall be construed by regulations adopted by the Department of Revenue to mean tangible property used as an integral part of the manufacturing, processing, compounding, or producing for sale, or for exclusive use in spaceport activities as defined in s. 212.02, of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph.

b. "Productive output" means the number of units actually produced by a single plant or operation in a single continuous 12-month period, irrespective of sales. Increases in productive output shall be measured by the output for 12 continuous months immediately following the completion of installation of such machinery or equipment over the output for the 12 continuous months immediately preceding such installation. However, if a different 12-month continuous period of time would more accurately reflect the increase in productive output of machinery and equipment purchased to facilitate an expansion, the increase in productive output may be measured during that 12-month continuous period of time if such time period is mutually agreed upon by the Department of Revenue and the expanding business prior to the commencement of production; provided, however, in no case may such time period begin later than 2 years following the completion of installation of the new machinery and equipment. The units used to measure productive output shall be physically comparable between the two periods, irrespective of sales.

7. For the purposes of the application of subparagraph 1., qualifying machinery and equipment purchased by printing and publishing firms will be taxed at the rate of 3 percent. For the purposes of the application of subparagraph 2., qualifying machinery and equipment purchased by printing and publishing firms will be taxed at the rate of 3 percent only after $100,000 in tax per calendar year has been paid at the general sales tax rate.

And the title is amended as follows:

In title, on page 69, strike all of lines 9-15 and insert: amending s. 212.08, F.S.; revising the tax rate for machinery and equipment used in new or expanding printing or publishing businesses; amending s. 212.08, F.S.;

Senator Jenne moved the following amendments to **Amendment 1** which were adopted:

Amendment 1D—On page 66, line 31, insert:

Section 35. Paragraph (j) is added to subsection (10) of section 212.02, Florida Statutes, 1994 Supplement, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(10) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accomodations in hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(j) Privilege, franchise, or concession fees, or fees for a license to do business, paid to an airport are not payments for leasing, letting, renting, or granting a license for the use of real property.

(Renumber subsequent sections.)

Amendment 1E—In title, on page 71, line 27, after the semicolon (;) insert: amending s. 212.02, F.S.; providing that privilege, franchise, or concession fees or fees for a license to do business paid to an airport are not payments for leasing, renting, or granting a license to use real property;

Senator Gutman moved the following amendment to **Amendment 1** which was adopted:

Amendment 1F—On page 17, line 5, strike "January" and insert: July

Senator McKay moved the following amendment to **Amendment 1** which was adopted:

Amendment 1G (with Title Amendment)—On page 66, between lines 24 and 25, insert:

Section 34. Effective January 1, 1996, subsection (11) is added to section 159.803, Florida Statutes, 1994 Supplement, to read:

159.803 Definitions.—As used in this part, the term:

(11) "Florida First Business project" means any project which is certified by the Department of Commerce as eligible to receive an allocation from the Florida First Business allocation pool established pursuant to s. 159.8083. The Department of Commerce may certify those projects meeting the criteria set forth in s. 288.106(4)(b) or any project providing a substantial economic benefit to this state.

Section 35. Effective January 1, 1996, paragraph (b) of subsection (1), paragraph (a) of subsection (2), and subsection (4) of section 159.804, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

159.804 Allocation of state volume limitation.—The division shall annually determine the amount of private activity bonds permitted to be issued in this state under the Code and shall make such information available upon request to any person or agency. The total amount of private activity bonds authorized to be issued in this state pursuant to the Code shall be initially allocated as follows on January 1 of each year:

(1)

(b) If on January 1 of any year, under federal law, bonds for manufacturing facilities no longer require or are eligible for an allocation pursuant to s. 146 of the Code, the allocation of the state volume limitation in the manufacturing facility pool shall be divided among the remaining pools in the following manner: *50* ~~60~~ percent to be shared by the 16 regions for use in the manner prescribed in subsection (2); 25 percent for use by the Florida Housing Finance Agency in the manner prescribed in subsection (3); *5* ~~and 15~~ percent for use in the state allocation pool in the manner prescribed in subsection (4), *and 20 percent for use in the Florida First Business allocation pool in the manner prescribed in subsection (5).*

(2)(a) *Fifty* ~~Sixty~~ percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated among the regions established in paragraph (b) for use by all agencies whose boundaries are coterminous with or contained within each region. The volume limitation for each regional allocation pool must be an amount that bears the same ratio to *50* ~~60~~ percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) for such calendar year as the population of the region bears to the population of the entire state.

(4) *Five* ~~Fifteen~~ percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the state allocation pool, for use as provided in s. 159.807.

(5) Twenty percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the Florida First Business allocation pool, to be used as provided in s. 159.8083.

Section 36. Subsection (1) of section 159.805, Florida Statutes, is amended to read:

159.805 Procedures for obtaining allocations; requirements; limitations on allocations; issuance reports.—

(1) Except for bonds issued prior to July 1 of each year utilizing an allocation pursuant to s. 159.804(3), prior to the issuance of any private activity bond by or on behalf of any agency, a notice of intent to issue such bonds must be filed in writing by or on behalf of such agency with the division to obtain a written confirmation of an allocation for such issue. The notice of intent to issue shall not be filed until elected official or voter approval, if any, required pursuant to s. 147(f) of the Code has been obtained. A notice of intent to issue shall be filed only by either the agency proposing to issue private activity bonds or any agency required to give elected official or voter approval for such bonds pursuant to s. 147(f) of the Code. Each such notice of intent to issue a private activity bond filed with the division must include a certification that approval, if needed, has been obtained, a statement of the amount of private activity bonds proposed to be issued, the fee required by s. 159.811, *an opinion or statement of counsel that the project to be financed may be financed with private activity bonds and that allocation is required to issue such bonds,* and such additional information as the division considers appropriate. At 12 noon Tallahassee time each business day, the division shall compute the aggregate amount of private activity bonds in each pool for which notices of intent to issue have been received since noon on the previous business day. Except for priority projects, written confirmations of allocations shall be issued by the director for private activity bonds, subject to the availability of a sufficient amount of state volume limitation of private activity bonds permitted to be issued in this state. Each confirmation must state the amount of the allocation made for such bonds. The amount of each such confirmation must, if sufficient allocation is available in the appropriate pool, be the amount of the allocation requested in the notice of intent to issue. A written confirmation for a private activity bond may be issued based on one or more of the initial allocations provided by s. 159.804. The director shall maintain continuous and cumulative records of the amounts of private activity bonds for which written confirmations of an allocation have been issued.

Section 37. Effective January 1, 1996, subsection (3) of section 159.807, Florida Statutes, is amended to read:

159.807 State allocation pool.—

(3) *After November 16 of each year* ~~Except for priority projects, other than manufacturing facilities, which are eligible to receive allocations from the state allocation pool at any time during the year, after April 1 of each year the state allocation pool may only be used after the allocation pool for a region has been totally exhausted through written confirmations issued pursuant to s. 159.806 or when the regional allocation pool is inadequate to completely provide an allocation for a private activity bond or when the manufacturing facility bond pool established by s. 159.8081 is unavailable. If the allocation pool of a region has been exhausted or the manufacturing facility bond pool is unavailable~~, all written confirmations for issues of private activity bonds by agencies in a ~~that~~ region or for manufacturing facility projects must be issued based on available portions of the state allocation pool.

Section 38. Subsection (3) is added to section 159.8081, Florida Statutes, to read:

159.8081 Manufacturing facility bond pool.—

(3) Any written confirmation issued by the director pursuant to this section has no effect unless the bonds to which such confirmation applies have been issued by the agency and written notice of such issuance has been provided to the director within 90 calendar days after the date the confirmation was issued or November 15, whichever occurs earlier.

Section 39. Effective January 1, 1996, section 159.8083, Florida Statutes, is created to read:

159.8083 Florida First Business allocation pool.—The Florida First Business allocation pool is hereby established. The Florida First Business allocation pool shall be available solely to provide written confirmation for private activity bonds to finance Florida First Business projects certified by the Department of Commerce as eligible to receive a written confirmation. Allocations from such pool shall be awarded statewide pursuant to procedures specified in s. 159.805, except that the provisions of s. 159.805(2), (3), and (6) do not apply. Florida First Business projects that are eligible for a carry-forward shall not lose their allocation on November 16 if they have applied and have been granted a carry-forward. In issuing written confirmations of allocations for Florida First Business projects, the division shall use the Florida First Business allocation pool. If allocation is not available from the Florida First Business allocation pool, the division shall issue written confirmations of allocations for Florida First Business projects pursuant to s. 159.806 or s. 159.807, in such order. For the purpose of determining priority within a regional allocation pool or the state allocation pool, notices of intent to issue bonds for Florida First Business projects to be issued from a regional allocation pool or the state allocation pool shall be considered to have been received by the division at the time it is determined by the division that the Florida First Business allocation pool is unavailable to issue confirmation for such Florida First Business project. If the total amount requested in notices of intent to issue private activity bonds for Florida First Business projects exceeds the total amount of the Florida First Business allocation pool, the director shall forward all timely notices of intent to issue, which are received by the division for such projects, to the Department of Commerce which shall render a decision as to which notices of intent to issue are to receive written confirmations. The Department of Commerce, in consultation with the division, shall develop rules to ensure that the allocation provided in such pool is available solely to provide written confirmations for private activity bonds to finance Florida First Business projects and that such projects are feasible and financially solvent.

Section 40. Effective January 1, 1996, section 159.809, Florida Statutes, is amended to read:

159.809 Recapture of unused amounts.—

(1) On April 1 of each year, any portion of each initial allocation made pursuant to s. 159.804(4) for which a written confirmation has not been issued by the director or for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to such date shall be added to the Florida First Business allocation pool.

(2) ~~(1)~~ On July 1 of each year, any portion of each initial allocation made pursuant to s. 159.804(2) or s. 159.804(3) for which a written confirmation has not been issued by the director or for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to that date shall be added to the *Florida First Business* ~~state~~ allocation pool.

(3) ~~(2)~~ On November 16 of each year, any portion of the initial allocation, made pursuant to s. 159.804(1), *s. 159.804(5), or subsections (1) or (2), other than as provided in s. 159.8083,* for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to that date shall be added to the state allocation pool.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 71, line 27, after the semicolon (;) insert: amending s. 159.803, F.S.; defining the term "Florida First Business project" for the purposes of part VI of ch. 159, F.S., relating to private activity bonds; amending s. 159.804, F.S.; providing for a portion of private activity bonds to be allocated to the Florida First Business allocation pool; amending s. 159.805, F.S.; providing additional requirements for notice for issuing private activity bonds; amending s. 159.807, F.S.; deleting certain limitations on the state allocation pool; amending s. 159.8081, F.S.; providing notice requirements for bonds issued under the manufacturing

facility bond pool; creating s. 159.8083, F.S.; creating the Florida First Business allocation pool; requiring notice of intent; requiring the Department of Commerce to develop rules; amending s. 159.809, F.S.; providing for unused amounts to be returned to the Florida First Business allocation pool;

On motion by Senator Gutman, further consideration of **CS for SB 2422** with pending **Amendment 1** as amended was deferred.

SB 2296—A bill to be entitled An act relating to cultural programs; amending s. 265.2861, F.S.; specifying appropriations from the Cultural Institutions Trust Fund for certain purposes; deleting provisions providing for specific transfers of funds from the Division of Corporations to the Cultural Institutions Trust Fund; amending s. 267.0617, F.S.; providing an additional cross reference for purposes of moneys in the Historic Preservation Trust Fund; amending s. 607.1901, F.S.; specifying transfers of funds from the Corporations Trust Fund to certain trust funds for certain purposes; repealing ss. 265.609(3) and 267.0617(6), F.S., relating to transfers from the Corporations Trust Fund for certain purposes; repealing s. 6 of chapter 89-359, Laws of Florida, relating to annual transfers from the Corporations Trust Fund for certain purposes; providing an effective date.

—was read the second time by title.

The Committee on Governmental Reform and Oversight recommended the following amendments which were moved by Senator Harris and adopted:

Amendment 1—On page 2, line 12, after "*$200,000*" insert: . *First priority for the issuance of State Touring Program grants shall be given to applicants that reside in counties with a population of 50,000 or less*

Amendment 2—On page 2, line 19, insert:

(e) For state-owned cultural facilities assigned to the Department of State, which receive a portion of any operating funds from the Department of State and one of the primary purposes of which is the presentation of fine arts or performing arts, not less than $2,200,000.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Harris:

Amendment 3 (with Title Amendment)—On page 1, line 23, insert:

Section 13. Effective January 1, 1996, sections 620.81001, 620.81002, 620.8101, 620.8102, 620.8103, 620.8104, 620.8105, 620.81055, 620.8106, 620.8107, 620.8201, 620.8202, 620.8203, 620.8204, 620.8301, 620.8302, 620.8303, 620.8304, 620.8305, 620.8306, 620.8307, 620.8308, 620.8401, 620.8402, 620.8403, 620.8404, 620.8405, 620.8406, 620.8501, 620.8502, 620.8503, 620.8504, 620.8601, 602.8602, 620.8603, 620.8701, 620.8702, 620.8703, 620.8704, 620.8705, 620.8801, 620.8802, 620.8803, 620.8804, 620.8805, 620.8806, 620.8807, 620.8901, 620.8902, 620.8903, 620.8904, 620.8905, 620.8906, 620.8907, and 620.8908, Florida Statutes, are created to read:

620.81001 Uniformity of application and construction.—This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act.

620.81002 Short title.—This act may be cited as the Revised Uniform Partnership Act of 1995.

620.8101 Definitions.—As provided in this act:

(1) "Act" means the Revised Uniform Partnership Act of 1995, consisting of ss. 620.81001-620.8908.

(2) "Business" means any trade, occupation, profession, or investment activity.

(3) "Debtor in bankruptcy" means a person who is the subject of:

(a) An order for relief under Title 11, United States Code, or a comparable order under a successor statute of general application; or

(b) A comparable order under federal or state law governing insolvency.

(4) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(5) "Partnership" means an association of two or more persons to carry on as coowners a business for profit formed under s. 620.8202, predecessor law, or the comparable law of another jurisdiction.

(6) "Partnership agreement" means an agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(7) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(8) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, association, joint venture, limited liability company, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

(11) "Registration" or "registration statement" means a partnership registration statement filed with the Department of State under s. 620.8105.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "Statement" means a statement of partnership authority under s. 620.8303, a statement of denial under s. 620.8304, a statement of dissociation under s. 620.8704, a statement of dissolution under s. 620.8805, a statement of merger under s. 620.8907, or an amendment or cancellation of any of the foregoing.

(14) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, or encumbrance.

620.8102 Knowledge and notice.—

(1) A person knows a fact if the person has actual knowledge of the fact.

(2) A person has notice of a fact if the person:

(a) Knows of the fact;

(b) Has received a notification of the fact; or

(c) Has reason to know the fact exists from all other facts known to the person at the time in question.

(3) A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in the ordinary course, whether or not the other person learns of it.

(4) A person receives a notification when the notification:

(a) Comes to the person's attention; or

(b) Is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

(5) Except as otherwise provided in subsection (6), a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if the person maintains reasonable routines for communicating significant information to an individual conducting a transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(6) A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to, or receipt of a notification by the partnership, except in the

case of a fraud on the partnership committed by or with the consent of that partner.

620.8103 Effect of partnership agreement; nonwaivable provisions.—

(1) Except as otherwise provided in subsection (2), relations among partners and between partners and a partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this act governs relations among partners and between partners and a partnership.

(2) The partnership agreement may not:

(a)1. Vary the rights and duties under s. 620.8105 except to eliminate the duty to provide copies of statements to all of the partners;

2. Unreasonably restrict the right of access to books and records under s. 620.8403(2) and (3); or

3. Eliminate the duty of loyalty under s. 620.8404(2) or s. 620.8603(2)(c), but the partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable, or all of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(b) Unreasonably reduce the duty of care under s. 620.8404(3) or s. 620.8603(2)(c);

(c) Eliminate the obligation of good faith and fair dealing under s. 620.8404(4), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured if the standards are not manifestly unreasonable;

(d) Vary the power to dissociate as a partner under s. 620.8602(1), except to require the notice under s. 620.8601(1) to be in writing;

(e) Vary the right of a court to expel a partner under the events specified in s. 620.8601(5);

(f) Vary the requirement to wind up the partnership business in cases specified in s. 620.8601(4), (5), or (6);

(g) Change the notice provisions contained in s. 620.8902(6) or s. 620.8905(6); or

(h) Restrict rights of third parties under this act.

620.8104 Supplemental principles of law.—

(1) Unless displaced by particular provisions of this act, the principles of law and equity supplement this act.

(2) If an obligation to pay interest arises under this act and the rate is not specified, the rate is that specified in s. 687.01.

620.8105 Execution, filing, and recording of partnership registration and other statements.—

(1) A partnership may file a partnership registration statement with the Department of State, which must include:

(a) The name of the partnership, which must be filed for purpose of public notice only and shall create no presumption of ownership beyond that which is created under the common law and which shall be recorded by the Department of State without regard to any other name recordation.

(b) The street address of the chief executive office of the partnership and the street address of the principal office of the partnership in this state, if there is one.

(c)1. The names and mailing addresses of all partners of the partnership; or

2. The name and street address of an agent appointed and maintained by the partnership, who shall maintain a list of the names and mailing addresses of all of the partners of the partnership and, on request for good cause shown, shall make the list available to any person at an office open from at least 10 a.m. to 12 noon each day, except Saturdays, Sundays, and legal holidays.

(d) Pursuant to s. 119.092, the partnership's Federal Employer Identification Number.

(e) The recorded document number of a partner or agent named pursuant to subparagraph (c)2. that is a person other than an individual.

(2) The Department of State shall file a partnership registration statement under subsection (1) without regard to the use of the same or a similar name by another partnership registered or other entity organized or qualified in this state. The use of a partnership name in a registration statement filed with the Department of State is for the purpose of public notice only and does not create a presumption of ownership of the name used beyond that acquired under the common law.

(3) Each partner of a registered partnership, and any agent named pursuant to subparagraph (1)(c)2. that is a legal or other commercial entity, and not an individual, must:

(a) Be organized or otherwise registered with the Department of State as required by law.

(b) Maintain an active status with the Department of State.

(c) Not be dissolved, revoked, canceled, or withdrawn.

(4) Except as provided in s. 620.8304 or s. 620.8704, a statement may be filed with the Department of State only if the partnership has filed a registration statement pursuant to subsection (1). A certified copy of a statement that is filed in a jurisdiction other than this state may be filed with the Department of State in lieu of an original statement. Any such filing has the effect provided in this act with respect to partnership property located in, or transactions that occur in, this state.

(5) A partnership registration statement or other statement must be delivered to the Department of State for filing, which may include electronic filing pursuant to s. 15.16 and must be typewritten or legibly printed in the English language.

(6) A statement filed by a partnership must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by this act. The execution of a statement by an individual as, or on behalf of, a partner or other person named as a partner in a filing constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

(7) A partnership may amend or cancel its registration, and a person authorized by this act to file a statement may amend or cancel the statement, by filing an amendment or cancellation that:

(a) Identifies the partnership and the statement being amended or canceled; and

(b) States the substance of what is being amended or canceled.

(8) A certified copy of a statement that has been filed with the Department of State and recorded in the office for recording transfers of real property has the effect provided for recorded statements in this act. A recorded statement that is not a certified copy of a statement filed with the Department of State does not have the effect provided for recorded statements in this act.

(9) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person who is not a partner.

(10) If a document is determined by the Department of State to be incomplete and inappropriate for filing, the Department of State shall return the document to the person or entity filing it within 15 days after the document was received for filing, together with a brief written explanation of the reason for the refusal to file the document. If the applicant returns the document with corrections in accordance with the rules of the Department of State within 60 days after it was mailed to the applicant by the Department of State and, if at the time of return the applicant so requests in writing, the filing date of the document will be the filing date that would have been applied had the original document not been deficient, except as to persons who relied on the record before correction and were adversely affected thereby.

620.81055 Fees for filing documents and issuing certificates; powers of the Department of State.—

(1) The Department of State shall collect the following fees when documents authorized by this act are delivered to the Department of State for filing:

(a) Partnership registration statement: $50.

(b) Statement of partnership authority: $25.

(c) Statement of denial: $25.

(d) Statement of dissociation: $25.

(e) Statement of dissolution: $25.

(f) Statement of merger for each party thereto: $25.

(g) Amendment to any statement or registration: $25.

(h) Cancellation of any statement or registration: $25.

(i) Certified copy of any recording or part thereof: $52.50.

(j) Certificate of status: $8.75.

(k) Any other document required or permitted to be filed by this act: $25.

(2) The Department of State has the power and authority reasonably necessary to enable it to administer this act efficiently, to perform the duties imposed upon it by this act, and to adopt reasonable rules necessary to carry out its duties and functions under this act.

620.8106 Law governing internal relations.—The law of the jurisdiction in which a partnership has its chief executive office governs relations among partners and between the partners and a partnership.

620.8107 Partnership subject to amendment or repeal of act.—A partnership governed by this act is subject to any amendment to or repeal of this act.

620.8201 Partnership as entity.—A partnership is an entity distinct from its partners.

620.8202 Formation of partnership.—

(1) Except as otherwise provided in subsection (2), the association of two or more persons to carry on as coowners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

(2) An association formed under a statute, other than this act, a predecessor statute, or a comparable law of another jurisdiction is not a partnership under this act.

(3) In determining whether a partnership is formed, the following rules apply:

(a) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the coowners share profits made by the use of the property.

(b) The sharing of gross returns does not, by itself, establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.

(c) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

1. Of a debt by installments or otherwise;

2. For services as an independent contractor or of wages or other compensation to an employee;

3. Of rent;

4. Of an annuity or other retirement benefit to a beneficiary, representative, or designee of a deceased or retired partner;

5. Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or

6. For the sale of the goodwill of a business or other property by installments or otherwise.

620.8203 Partnership property.—Property acquired by a partnership is property of the partnership and not of the partners individually.

620.8204 When property is partnership property.—

(1) Property is partnership property if acquired in the name of:

(a) The partnership; or

(b) One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

(2) Property is acquired in the name of the partnership by a transfer to:

(a) The partnership in its name; or

(b) One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(3) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(4) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

620.8301 Partner agent of partnership.—Subject to the effect of a statement of partnership authority under s. 620.8303:

(1) Each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course of partnership business or business of the kind carried on by the partnership, in the geographic area in which the partnership operates, binds the partnership unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

(2) An act of a partner which is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by all of the other partners or is authorized by the terms of a written partnership agreement.

620 8302 Transfer of partnership property.—

(1) Partnership property may be transferred as follows:

(a) Subject to the effect of a statement of partnership authority under s. 620.8303, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

(b) Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(c) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(2) A partnership may recover partnership property from a transferee only if the partnership proves that execution of the instrument of initial transfer did not bind the partnership under s. 620.8301 and:

(a) As to a subsequent transferee who gave value for property transferred under paragraph (1)(a) or paragraph (1)(b), proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or

(b) As to a transferee who gave value for property transferred under paragraph (1)(c), proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(3) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property under subsection (2) from any earlier transferee of the property.

(4) If a person holds all of the partners' interests in the partnership, all of the partnership property vests in such person. Such person may execute a document in the name of the partnership to evidence vesting of the property in such person and may file or record the document.

620.8303 Statement of partnership authority.—

(1) A partnership may file a statement of partnership authority, which:

(a) Must include the name of the partnership, as identified in the records of the Department of State, and the names of the partners authorized to execute an instrument transferring real property held in the name of the partnership.

(b) May also state or include the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership, and any other matter.

(2) If a filed statement of partnership authority is executed pursuant to s. 620.8105(3) and states the name of the partnership but does not contain all of the other information required by subsection (1), the statement nevertheless operates with respect to a person not a partner as provided in subsections (3) and (4).

(3) Except as provided in subsection (6), a filed statement of partnership authority supplements the authority of a partner to enter into transactions on behalf of the partnership as follows:

(a) Except for transfers of real property, a grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed statement. A filed cancellation of a limitation on authority revives the previous grant of authority.

(b) A grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of such real property is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on such authority is not then of record in the office for recording transfers of such real property. The recording in the office for recording transfers of such real property of a certified copy of a filed cancellation of a limitation on authority revives the previous grant of authority.

(4) A person who is not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the filed statement containing the limitation on authority is of record in the office for recording transfers of such real property.

(5) Except as otherwise provided in subsections (3) and (4) and ss. 620.8704 and 620.8805, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

(6) Unless earlier canceled, a filed statement of partnership authority is canceled by operation of law 5 years after the date on which the statement, or the most recent amendment, was filed with the Department of State.

620.8304 Statement of denial.—

(1) A partner or other person named as a partner in a filed registration, statement of partnership authority, or in a list maintained by an agent pursuant to s. 620.8105(1)(c) may file a statement of denial stating:

(a) The name of the partnership, as identified in the records of the Department of State; and

(b) The fact that is being denied, which may include denial of a person's authority or status as a partner.

(2) A statement of denial may be filed without regard to the provisions of s. 620.8105(4) if it states that no partnership registration statement has been filed with the Department of State.

(3) A statement of denial is a limitation on authority as provided in s. 620.8303(5) and (6).

620.8305 Partnership liable for partner's actionable conduct.—

(1) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(2) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person who is not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

620.8306 Partner's liability.—

(1) Except as otherwise provided in subsection (2), all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by a claimant or provided by law.

(2) A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.

620.8307 Actions by and against partnership and partners.—

(1) A partnership may sue and be sued in the name of the partnership.

(2) An action may be brought against the partnership and any or all of the partners in the same action or in separate actions.

(3) A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.

(4) A judgment creditor of a partner may perfect a judgment lien but may not proceed against or otherwise levy or execute against the assets of the partner to satisfy a judgment arising from a partnership obligation or liability unless:

(a) A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(b) The partnership is a debtor in bankruptcy;

(c) The partner has agreed that the creditor need not exhaust partnership assets;

(d) A court grants permission to the judgment creditor to proceed against or otherwise levy or execute against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(e) Liability is imposed on the partner by law or contract independent of the existence of the partnership.

(5) This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under s. 620.8308.

620.8308 Liability of purported partner.—

(1) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons who are not partners, the purported partner is liable to a person to whom the representation is made if such person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to such liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to such liability jointly and severally with any other person consenting to the representation.

(2) If a person is thus represented to be a partner in an existing partnership, or with one or more persons who are not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

(3) A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

(4) A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

(5) Except as otherwise provided in subsections (1) and (2), persons who are not partners as to each other are not liable as partners to other persons.

620.8401 Partner's rights and duties.—

(1) Each partner is deemed to have an account which is:

(a) Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and

(b) Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(2) Each partner is entitled to an equal share of the partnership profits and is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

(3) A partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.

(4) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

(5) A payment or advance made by a partner which gives rise to a partnership obligation under subsection (3) or subsection (4) constitutes a loan to the partnership which accrues interest from the date of the payment or advance.

(6) Each partner has equal rights in the management and conduct of the partnership business.

(7) A partner may use or possess partnership property only on behalf of the partnership.

(8) A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

(9) A person may become a partner only with the consent of all of the partners.

(10) A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.

(11) This section does not affect the obligations of a partnership to other persons under s. 620.8301

620.8402 Distributions in kind.—A partner has no right to receive, and may not be required to accept, a distribution in kind.

620.8403 Partner's rights and duties with respect to information.—

(1) A partnership shall keep its books and records, if any, at the chief executive office of the partnership.

(2) A partnership shall provide partners and their agents and attorneys access to the books and records of the partnership. The partnership shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

(3) Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability:

(a) Without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this act; and

(b) Upon demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

620.8404 General standards of partner's conduct.—

(1) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care, as set forth in subsections (2) and (3).

(2) A partner's duty of loyalty to the partnership and the other partners includes, without limitation, the following:

(a) To account to the partnership and hold as trustee for the partnership any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;

(b) To refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership; and

(c) To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

(3) A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(4) A partner shall discharge the duties to the partnership and the other partners under this act or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(5) A partner does not violate a duty or obligation under this act or under a partnership agreement merely because the partner's conduct furthers the partner's own interest.

(6) A partner may lend money to and transact other business with the partnership, and as to each loan or transaction, the rights and obligations of the partner are the same as those of a person who is not a partner, subject to other applicable law.

(7) This section applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

620.8405 Actions by partnership and partners.—

(1) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

(2) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to:

(a) Enforce such partner's rights under the partnership agreement;

(b) Enforce such partner's rights under this act, including:

1. Such partner's rights under s. 620.8401, s. 620.8403, or s. 620.8404;

2. Such partner's right upon dissociation to have the partner's interest in the partnership purchased pursuant to s. 620.8701 or enforce any other right under ss. 620.8601-620.8705; or

3. Such partner's right to compel a dissolution and winding up of the partnership business under s. 620.8801 or enforce any other right under ss. 620.8801-620.8807; or

(c) Enforce the rights and otherwise protect the interests of such partner, including rights and interests arising independently of the partnership relationship.

(3) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

620.8406 Continuation of partnership beyond definite term or particular undertaking.—

(1) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(2) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

620.8501 Partner not coowner of partnership property.—Partnership property is owned by the partnership as an entity, not by the partners as coowners. A partner has no interest that can be transferred, either voluntarily or involuntarily, in specific partnership property.

620.8502 Partner's transferable interest in partnership.—The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. A partner's interest in the partnership is personal property.

620.8503 Transfer of partner's transferable interest.—

(1) A transfer, in whole or in part, of a partner's transferable interest in the partnership:

(a) Is permissible.

(b) Does not, by itself, cause the partner's dissociation or a dissolution and winding up of the partnership business.

(c) Does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.

(2) A transferee of a partner's transferable interest in the partnership has a right:

(a) To receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;

(b) To receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and

(c) To seek, under s. 620.839(6), a judicial determination that it is equitable to wind up the partnership business.

(3) In a dissolution and winding up of a partnership, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all the partners.

(4) Upon transfer, the transferor retains the rights and duties of a partner other than the interest in distributions transferred.

(5) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.

(6) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

620.8504 Partner's transferable interest subject to charging order.—

(1) Upon application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require.

(2) A charging order constitutes a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(3) At any time before foreclosure, an interest charged may be redeemed:

(a) By the judgment debtor;

(b) With property other than partnership property, by one or more of the other partners; or

(c) With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.

(4) This act does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

(5) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

620.8601 Events causing partner's dissociation.—A partner is dissociated from a partnership upon the occurrence of any of the following events:

(1) The partnership having notice of the partner's express will to immediately withdraw as a partner or withdraw on a later date specified by the partner;

(2) An event agreed to in the partnership agreement causing the partner's dissociation;

(3) The partner's expulsion pursuant to the partnership agreement;

(4) The partner's expulsion by a unanimous vote of the other partners if:

(a) It is unlawful to carry on the partnership business with such partner;

(b) There has been a transfer of all or substantially all of such partner's transferable interest in the partnership other than a transfer for security purposes, or a court order charging the partner's interest, which has not been foreclosed;

(c) Within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of the corporate partner's charter or the corporate partner's right to conduct business; or

(d) A partnership that is a partner has been dissolved and its business is being wound up;

(5) On application by the partnership or another partner, the partner's expulsion by judicial determination because:

(a) The partner engaged in wrongful conduct that adversely and materially affected the partnership business;

(b) The partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under s. 620.8404; or

(c) The partner engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner;

(6) The partner's:

(a) Becoming a debtor in bankruptcy;

(b) Executing an assignment for the benefit of creditors;

(c) Seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of such partner or of all or substantially all of such partner's property; or

(d) Failing, within 90 days after appointment, to have vacated or have stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

(7) In the case of a partner who is an individual:

(a) The partner's death;

(b) The appointment of a guardian or general conservator for the partner; or

(c) A judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

(8) In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee;

(9) In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative; or

(10) Termination of a partner who is not an individual, partnership, corporation, trust, or estate.

620.8602 Partner's power to dissociate; wrongful dissociation.—

(1) A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to s. 620.8601(1).

(2) A partner's dissociation is wrongful only if:

(a) It is in breach of an express provision of the partnership agreement; or

(b) In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:

1. The partner withdraws by express will, unless the withdrawal follows within 90 days after another partner's dissociation by death or otherwise under s. 620.8601(6)-(10) or wrongful dissociation under this subsection;

2. The partner is expelled by judicial determination under s. 620.8601(5);

3. The partner is dissociated by becoming a debtor in bankruptcy; or

4. In the case of a partner who is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because the partner willfully dissolved or terminated.

(3) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.

620.8603 Effect of partner's dissociation.—

(1) If a partner's dissociation results in a dissolution and winding up of the partnership business, ss. 620.8801-620.8807 apply; otherwise, ss. 620.8701-620.8705 apply.

(2) Upon a partner's dissociation:

(a) The partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in s. 620.8803;

(b) The partner's duty of loyalty under s. 620.8404(2)(c) terminates; and

(c) The partner's duty of loyalty under s. 620.8404(2)(a) and (b) and duty of care under s. 620.8404(3) continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to s. 620.8803.

620.8701 Purchase of dissociated partner's interest.—

(1) If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under s. 620.8801, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection (2).

(2) The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under s. 620.8807(2) if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value of the assets or the value of the assets based upon a sale of the entire business as a going concern without having the dissociated partner and the partnership wind up as of such date. Interest must be paid from the date of dissociation to the date of payment.

(3) Damages for wrongful dissociation under s. 620.8602(2), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

(4) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under s. 620.8702.

(5) If no agreement for the purchase of a dissociated partner's interest is reached within 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection (3).

(6) If a deferred payment is authorized under subsection (8), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under subsection (3), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

(7) The payment or tender required by subsection (5) or subsection (6) must be accompanied by the following:

(a) A statement of partnership assets and liabilities as of the date of dissociation;

(b) The latest available partnership balance sheet and income statement, if any;

(c) An explanation of how the estimated amount of the payment was calculated; and

(d) Written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (3), or other terms of the obligation to purchase.

(8) A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment must be adequately secured and shall bear interest.

(9) A dissociated partner may maintain an action against the partnership, pursuant to s. 620.8405(2)(b)2., to determine the buyout price of that partner's interest, any offsets under subsection (3), or other terms of the obligation to purchase. The action must be commenced within 120 days after the partnership has tendered payment or an offer to pay or within 1 year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection (3), and accrued

interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (8), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (7).

620.8702 Dissociated partner's power to bind and liability to partnership.—

(1) For 1 year after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under ss. 620.8901-620.8908, is bound by an act of the dissociated partner which would have bound the partnership under s. 620.8301 before dissociation only if, at the time of entering into the transaction, the other party:

(a) Reasonably believed that the dissociated partner was then a partner;

(b) Did not have notice of the partner's dissociation; and

(c) Is not deemed to have had knowledge under s. 620.8303(5) or notice under s. 620.8704(4).

(2) A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under subsection (1).

620.8703 Dissociated partner's liability to other persons.—

(1) A partner's dissociation does not, by itself, discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in subsection (2).

(2) A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to any other party to a transaction entered into by the partnership, or a surviving partnership under ss. 620.8901-620.8908, within 1 year after the partner's dissociation only if, at the time of entering into the transaction, the other party:

(a) Reasonably believed that the dissociated partner was then a partner;

(b) Did not have notice of the partner's dissociation; and

(c) Is not deemed to have had knowledge under s. 620.8301(5) or notice under s. 620.8704(4).

(3) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

(4) A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

620.8704 Statement of dissociation.—

(1) A dissociated partner or the partnership may file a statement of dissociation stating:

(a) The name of the partnership as identified in the records of the Department of State.

(b) That the partner is dissociated from the partnership.

(2) A statement of dissociation may be filed without regard to the provisions of s. 620.8105(4) if it states that no partnership registration statement has been filed with the Department of State.

(3) A statement of dissociation is a limitation on the authority of a dissociated partner for purposes of s. 620.8303(5) and (6).

(4) For purposes of ss. 620.8702(1)(c) and 620.8703(2)(c), a person who is not a partner is deemed to have notice of the dissociation 90 days after a statement of dissociation is filed.

620.8705 Continued use of partnership name.—Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not, by itself, make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.

620.8801 Events causing dissolution and winding up of partnership business.—A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under s. 620.8601(2)-(10), of such partner's express will to withdraw as a partner, or withdraw on a later date specified by the partner;

(2) In a partnership for a definite term or particular undertaking:

(a) The expiration of 90 days after a partner's dissociation by death or otherwise under s. 620.8601(6)-(10) or by wrongful dissociation under s. 620.8602(2), unless before that time a majority in interest of the remaining partners, including partners who have rightfully dissociated pursuant to s. 620.8602(2)(b)1., agree to continue the partnership;

(b) The express will of all of the partners to wind up the partnership's business; or

(c) The expiration of the term or the completion of the undertaking;

(3) An event agreed to in the partnership agreement resulting in the winding up of the partnership business;

(4) An event which makes it unlawful for all or substantially all of the business of the partnership to be continued, provided, a cure of the illegality, within 90 days after notice to the partnership of the event, is effective retroactively to the date of the event for purposes of this section;

(5) On application by a partner, a judicial determination that:

(a) The economic purpose of the partnership is likely to be unreasonably frustrated;

(b) Another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with such partner; or

(c) It is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement; or

(6) On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:

(a) After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(b) At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

620.8802 Partnership continues after dissolution.—

(1) Subject to subsection (2), a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

(2) At any time after the dissolution of a partnership before the winding up of partnership business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:

(a) The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined is as if the dissolution had never occurred; and

(b) The rights of a third party accruing under s. 620.8804(1) or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver may not be adversely affected.

620.8803 Right to wind up partnership business.—

(1) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but, upon application of any partner, partner's legal representative, or transferee, the circuit court, for good cause shown, may order judicial supervision of the winding up.

(2) The legal representative of the last surviving partner may wind up a partnership's business.

(3) A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to s. 620.8807, settle disputes by mediation or arbitration, and perform any other necessary acts.

620.8804 Partner's power to bind partnership after dissolution.—Subject to s. 620.8805, a partnership is bound by a partner's act after dissolution which:

(1) Is appropriate for winding up the partnership business; or

(2) Would have bound the partnership under s. 620.8301 before dissolution if any other party to the transaction did not have notice of the dissolution.

620.8805 Statement of dissolution.—

(1) After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating:

(a) The name of the partnership, as identified in the records of the Department of State; and

(b) That the partnership has dissolved and is winding up its business.

(2) A statement of dissolution cancels a filed statement of partnership authority for purposes of s. 620.8305(5) and is a limitation on authority for purposes of s. 620.8303(6).

(3) For purposes of ss. 620.8301 and 620.8804, a person who is not a partner is deemed to have notice of a dissolution, and the limitation on the partners' authority as a result of the statement of dissolution, 90 days after it is filed.

(4) After filing and, if appropriate, recording a statement of dissolution, a dissolved partnership may file and, if appropriate, record a statement of partnership authority which will operate with respect to a person who is not a partner, as provided in s. 620.8303(5) and (6), in any transaction, whether or not the transaction is appropriate for winding up the partnership business.

620.8806 Partner's liability to other partners after dissolution.—

(1) Except as otherwise provided in subsection (2), after dissolution, a partner is liable to the other partners for the partner's share of any partnership liability incurred under s. 620.8804.

(2) A partner who, with knowledge of the dissolution, incurs a partnership liability under s. 620.8804(2) by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability.

620.8807 Settlement of accounts and contributions among partners.—

(1) In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, must be applied to discharge the partnership's obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus must be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subsection (2).

(2) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, any profits and losses which result from the liquidation of the partnership assets must be credited and charged to the partners' accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account.

(3) If a partner fails to contribute, all other partners shall contribute, in the proportions in which such partners share partnership losses, the additional amount necessary to satisfy the partnership obligations. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds such partner's share of the partnership obligations.

(4) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement.

(5) The estate of a deceased partner is liable for such partner's obligation to contribute to the partnership.

(6) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

620.8901 Definitions.—For purposes of ss. 620.8901-620.8908:

(1) "General partner" means a partner in a partnership and a general partner in a limited partnership.

(2) "Limited partner" means a limited partner in a limited partnership.

(3) "Limited partnership" means a limited partnership created under the Florida Revised Uniform Limited Partnership Act, as amended, predecessor law, or the comparable law of any other jurisdiction.

(4) "Partner" includes both a general partner and a limited partner.

620 8902 Conversion of partnership to limited partnership.—

(1) A partnership may be converted to a limited partnership pursuant to this section.

(2) The terms and conditions of a conversion of a partnership to a limited partnership must be approved by all of the partners or by a number or percentage specified for conversion in the partnership agreement.

(3) After a conversion is approved by the partners, the partnership shall file a certificate of limited partnership in the jurisdiction in which the limited partnership is to be formed. The certificate must include:

(a) A statement that the partnership was converted to a limited partnership from a partnership.

(b) Its former name.

(c) A statement of the number of votes cast by the partners by number, class, and percentage for and against the conversion and, if the vote is less than unanimous, the number, class, and percentage required to approve the conversion under the partnership agreement.

(4) A conversion takes effect when the certificate of limited partnership is filed or at any later date specified in the certificate.

(5) A general partner who becomes a limited partner as a result of a conversion remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. If a party to a transaction with the limited partnership reasonably believes when entering the transaction that the limited partner is a general partner, the limited partner is liable for an obligation incurred by the limited partnership within 90 days after the conversion takes effect. The limited partner's liability for all other obligations of the limited partnership incurred after the conversion takes effect is that of a limited partner as provided in the Florida Revised Uniform Limited Partnership Act, as amended.

(6) Prompt notice of a conversion of a partnership to a limited partnership, together with a copy of this section, shall be given to each partner.

620.8903 Conversion of limited partnership to partnership.—

(1) A limited partnership may be converted to a partnership pursuant to this section.

(2) Notwithstanding any provision in a limited partnership agreement, the terms and conditions of a conversion of a limited partnership to a partnership must be approved by all of the partners.

(3) After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership.

(4) A conversion takes effect when the certificate of limited partnership is canceled.

(5) A limited partner who becomes a general partner as a result of a conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. The partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.

620.8904 Effect of conversion; entity unchanged.—

(1) A partnership or limited partnership that has been converted pursuant to s. 620.8902 or s. 620.8908 is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) Title to all property owned by the converting partnership or limited partnership remains vested in the converted entity; and

(b) All liabilities and obligations of the converting partnership or limited partnership continue as liabilities and obligations of the converted entity.

(3) A claim existing or action or proceeding pending by or against a converting partnership or limited partnership may be continued as if the conversion had not occurred.

(4) Neither the rights of creditors of a converting partnership or limited partnership nor any liens upon the property of a converting partnership or limited partnership are impaired by a conversion.

620.8905 Merger of partnerships.—

(1) Pursuant to a plan of merger approved as provided in subsection (3), a partnership may be merged with one or more partnerships or limited partnerships.

(2) A plan of merger must set forth:

(a) The name and state of organization of each partnership or limited partnership which is a party to the merger;

(b) The name and state of organization of the surviving entity into which the partnerships or limited partnerships will merge;

(c) Whether the surviving entity is a partnership or a limited partnership and the status of each partner;

(d) The terms and conditions of the merger;

(e) The manner and basis of converting the interests of each partner of a party to the merger into interests or obligations of the surviving entity, or into money or other property in whole or in part; and

(f) The street address of the surviving entity's chief executive office.

(3) A plan of merger must be approved:

(a) In the case of a partnership which is a party to the merger, by all of the partners, or a number or percentage specified for merger in the partnership agreement; and

(b) In the case of a limited partnership which is a party to the merger, by the vote required for approval of a merger by the law of the state or foreign jurisdiction in which the limited partnership is organized or, in the absence of such law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement.

(4) After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

(5) The merger takes effect on the later of:

(a) Approval of a plan of merger by all parties to the merger, as provided in subsection (3);

(b) Filing all documents required by law to be filed as a condition to the effectiveness of the merger; or

(c) Any effective date specified in the plan of merger.

(6) Prompt notice of the merger, together with a copy of this section, shall be given to each partner.

620.8906 Effect of merger.—

(1) When a merger takes effect:

(a) The separate existence of every partnership or limited partnership which is a party to the merger, other than the surviving entity, ceases;

(b) Title to all property owned by each of the merged partnerships or limited partnerships vests in the surviving entity without reversion or impairment;

(c) All liabilities and obligations of each partnership or limited partnership which is a party to the merger become the liabilities and obligations of the surviving entity;

(d) A claim existing or action or proceeding pending by or against a partnership or limited partnership which is a party to the merger may be continued as if the merger had not occurred, or the surviving entity may be substituted as a party to the action or proceeding;

(e) Neither the rights of creditors of a converting partnership or limited partnership nor any liens upon the property of any party to the merger are impaired by such merger; and

(f) Each partner of a party to the merger is entitled only to the rights provided in the plan of merger.

(2) Service of process in an action against a surviving foreign partnership or limited partnership to enforce an obligation of a domestic partnership or limited partnership that is a party to a merger shall be as provided in chapter 48, unless the surviving entity is a foreign limited partnership which elects to register with the Department of State as provided in s. 620.169.

(3) A partner of the surviving partnership or limited partnership is liable for:

(a) All obligations of a party to the merger for which the partner was personally liable before the merger;

(b) All other obligations of the surviving entity incurred before the merger by a party to the merger, but such obligations may be satisfied only out of property of the surviving entity; and

(c) All obligations of the surviving entity incurred after the merger takes effect, but such obligations may be satisfied only out of property of the surviving entity if the partner is a limited partner.

(4) If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, the general partners of such party immediately before the effective date of the merger shall contribute the amount necessary to satisfy such party's obligations to the surviving entity, in the manner provided in s. 620.8807 or in ss. 620.136 and 620.148, as if the merged party were dissolved.

(5) A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity of which such partner was a partner as of the date the merger takes effect. The surviving entity shall cause such partner's interest in the entity to be purchased under s. 620.8701 or other statute specifically applicable to such partner's interest with respect to a merger. The surviving entity is bound under s. 620.8702 by an act of a general partner who is dissociated under this subsection, and such partner is liable under s. 620.8703 for transactions entered into by the surviving entity after the merger takes effect.

620.8907 Statement of merger.—

(1) After a merger, the surviving partnership or limited partnership may file a statement that one or more partnerships or limited partnerships have merged into the surviving entity.

(2) A statement of merger must contain:

(a) The name of each partnership or limited partnership, as identified in the records of the Department of State, that is a party to the merger;

(b) The name of the surviving entity into which the partnerships or limited partnerships were merged;

(c) The street address of the surviving entity's chief executive office and of an office in this state, if any; and

(d) Whether the surviving entity is a partnership or a limited partnership.

(3) If a statement of merger presented for filing discloses that one or more parties to the merger is a limited partnership, as a condition to filing the statement of merger, there must be prior compliance by each such limited partnership with the filing requirements of s. 620.108, s. 620.109, s. 620.116, or s. 620.169, as applicable.

(4) Except as otherwise provided in subsection (5), for the purposes of s. 620.8302, property of a surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon filing a statement of merger.

(5) For the purposes of s. 620.8302, real property of a surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon recording a certified copy of the statement of merger in the office of the official who is the recording officer of each county in this state in which real property of a party to the merger other than the surviving entity is situated.

(6) A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to s. 620.8105(3), stating the name of a partnership or limited partnership that is a party to the merger in whose name property was held before the merger and the name of the surviving entity, but not containing all of the other information required by subsection (2), operates with respect to the partnerships or limited partnerships named to the extent provided in subsections (4) and (5).

620.8908 Nonexclusive.—Sections 620.8901-620.8907 are not exclusive. Partnerships or limited partnerships may be converted or merged in any other manner provided by law.

Section 14. Applicability.—

(1) Beginning January 1, 1996, and ending January 1, 1998, section 13 of this act governs only a partnership formed:

(a) On or after January 1, 1996, unless such partnership is continuing the business of a dissolved partnership under section 620.76, Florida Statutes; and

(b) Before January 1, 1996, which elects, as provided in subsection (3), to be governed by section 13 of this act.

(2) Effective January 1, 1998, section 13 of this act governs all partnerships.

(3) Beginning January 1, 1996, and ending January 1, 1998, a partnership voluntarily may elect, in the manner provided in its partnership agreement or by law providing for amending the partnership agreement, to be governed by section 13 of this act. The provisions of section 13 of this act relating to liability of a partnership's partners to third parties apply to limit such partners' liability to a third party who had done business with the partnership within 1 year preceding the partnership's election to be governed by section 13 of this act, only if the third party knows or has received a notification of the partnership's election to be governed by section 13 of this act.

Section 15. Section 13 of this act does not affect any action or proceeding commenced or any right accrued before January 1, 1996.

Section 16. Paragraph (c) of subsection (1) of section 620.108, Florida Statutes, is amended to read:

620.108 Formation; certificate of limited partnership.—

(1) In order to form a limited partnership, a certificate of limited partnership must be executed and filed with the Department of State. The certificate must set forth:

(c) The name and the business address of each general partner. *Each* ~~If the~~ general partner *that* is a *legal or commercial entity and not an individual must be organized or otherwise registered with the Department of State as required by law* ~~corporation, it must be incorporated or qualified in this state pursuant to s. 607.0202 or s. 607.1503~~, must maintain an active status, and must not be dissolved, revoked, or withdrawn. An affidavit declaring the amount of the capital contributions of the limited partners and the amount anticipated to be contributed by the limited partners must accompany the certificate of limited partnership.

Section 17. Paragraph (a) of subsection (2) of section 620.109, Florida Statutes, is amended to read:

620.109 Amendment to, or restated, certificate of limited partnership.—

(2)(a) Within 30 days after the happening of any of the following events, an amendment to a certificate of limited partnership, indicating the occurrence of the event or events, must be filed:

1. The admission of a new general partner. *Each* ~~If the~~ general partner *that* is a *legal or commercial entity and not an individual must be organized or otherwise registered with the Department of State as required by law* ~~corporation, it must be incorporated or qualified in this state pursuant to s. 607.0202 or s. 607.1503~~, must maintain an active status, and must not be dissolved, revoked, or withdrawn.

2. The withdrawal of a general partner.

3. The continuation of the business under s. 620.157 after an event of withdrawal of a general partner.

4. A change in name of the limited partnership.

Section 18. Section 620.123, Florida Statutes, is amended to read:

620.123 Admission of additional general partners.—After the filing of a limited partnership's original certificate of limited partnership, additional general partners may be admitted as provided in writing in the partnership agreement or, if the partnership agreement does not provide in writing for the admission of additional general partners, with the written consent of all partners. *Each* ~~If the~~ general partner *that* is a *legal or commercial entity and not an individual must be organized or otherwise registered with the Department of State as required by law* ~~corporation, it must be incorporated or qualified in this state pursuant to s. 607.0202 or s. 607.1503~~, must maintain an active status, and must not be dissolved, revoked, or withdrawn.

Section 19. Effective January 1, 1996, section 620.143, Florida Statutes, is amended to read:

620.143 Withdrawal of limited partner.—

(1) A limited partner may withdraw from a limited partnership *only* at the time or upon the *occurrence* ~~happening~~ of an event specified ~~in writing~~ in the partnership agreement *or certificate of limited partnership*. ~~If the agreement does not specify in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and the winding up of the limited partnership, a limited partner may withdraw upon not less than 6 months' prior written notice to each general partner at his address as set forth in the certificate of limited partnership filed in the office of the Department of State.~~

(2) This section applies to all limited partnerships formed on or after January 1, 1996. This section also applies to limited partnerships formed before January 1, 1996, unless on December 31, 1995, its agreement did not specify in writing the time or the events upon the happening of which a limited partner could withdraw or a definite time for the dissolution and the winding up of the limited partnership. If the agreement of a partnership formed before January 1, 1996, did not on December 31, 1995, specify in writing the time or the the events upon the happening of which a limited partner could withdraw or a definite time for the dissolution and the winding up of the limited partnership, the provisions of this section which were in effect prior to January 1, 1996, shall apply. However, if on or after January 1, 1996, its agreement is amended in writing to specify a time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, this section as effective January 1, 1996, shall apply.

Section 20. Section 620.169, Florida Statutes, is amended to read:

620.169 Registration of foreign limited partnership.—Before transacting business in this state, a foreign limited partnership must register with the Department of State. In order to register, a foreign limited partnership must submit to the department, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

(1) The name of the foreign limited partnership or the name adopted for transacting business in this state.;

(2) The state, and date, of its formation.;

(3) The name and address of any agent for service of process on the foreign limited partnership that the foreign limited partnership elects to appoint; but the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state.;

(4) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if an agent has not been appointed under subsection (3) or, if an agent has been appointed, if the agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence.;

(5) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership.;

(6) The name and the business address of each general partner. *Each general partner that is a legal or commercial entity and not an individual must be organized or otherwise registered with the Department of State as required by law, must maintain an active status, and must not be dissolved, revoked, or withdrawn.*;

(7) The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this state is canceled or withdrawn.~~; and~~

(8) A mailing address for the foreign limited partnership.

An affidavit declaring the amount of the capital contributions of the limited partners and the anticipated amount of the capital contributions of the limited partners that are allocated for the purpose of transacting business in this state must accompany the application for registration.

Section 21. Paragraph (e) of subsection (1) of section 620.177, Florida Statutes, is amended to read:

620.177 Annual report of domestic or foreign limited partnership; renewal of authority.—

(1) To renew the certificate of authority for a limited partnership, which certificate expires on January 1 of each year, each domestic or foreign limited partnership authorized to transact business in this state shall file with the Department of State, on or before December 31 of each year, a sworn report on such forms as the department prescribes, which report must set forth:

(e) The name and the business address of each general partner. *Each* ~~If the~~ general partner *that* is a ~~corporation, it must be incorporated or qualified in this state pursuant to s. 607.0202 or s. 607.1503~~ *legal or commercial entity and not an individual must be organized or otherwise registered with the Department of State as required by law*, must maintain an active status, and must not be dissolved, revoked, or withdrawn.

Section 22. Effective January 1, 1996, section 620.186, Florida Statutes, is amended to read:

620.186 Applicability of Uniform Partnership Act.—In any case not provided for in this act, the provisions of the Uniform Partnership Act *or the Revised Uniform Partnership Act, as applicable,* and the rules of law and equity shall govern.

Section 23. Effective January 1, 1996, subsection (3) is added to section 689.045, Florida Statutes, to read:

689.045 Conveyances to or by ~~limited~~ partnership.—

(1) Any estate in real property may be acquired in the name of a limited partnership. Title so acquired must be conveyed or encumbered in the partnership name. Unless otherwise provided in the certificate of limited partnership, a conveyance or encumbrance of real property held in the partnership name, and any other instrument affecting title to real property in which the partnership has an interest, must be executed in the partnership name by one of the general partners.

(2) Every conveyance to a limited partnership in its name recorded before January 1, 1972, as required by law while the limited partnership was in existence is validated and is deemed to convey the title to the real property described in the conveyance to the partnership named as grantee.

(3) When title to real property is held in the name of a limited partnership or a general partnership, one of the general partners may execute and record, in the public records of the county in which such partnership's real property is located, an affidavit stating the names of the general partners then existing and the authority of any general partner to execute a conveyance, encumbrance, or other instrument affecting such partnership's real property. The affidavit shall be conclusive as to the facts therein stated as to purchasers without notice.

Section 24. (1) There is appropriated from the Corporations Trust Fund to the Division of Corporations of the Department of State, the sum of $775,659 in operating funds and 17 positions are authorized to administer the provisions of this act.

(2) All revenues collected in accordance with this act shall be deposited into the Corporations Trust Fund of the Department of State and shall be used in furtherance of the Department of State's cultural and historic preservation programs and other activities as the Legislature may direct.

Section 25. Effective January 1, 1998, sections 620.56, 620.565, 620.57, 620.575, 620.58, 620.585, 620.59, 620.595, 620.60, 620.605, 620.61, 620.615, 620.62, 620.625, 620.63, 620.635, 620.64, 620.645, 620.65, 620.655, 620.66, 620.665, 620.67, 620.675, 620.68, 620.685, 620.69, 620.695, 620.70, 620.705, 620.71, 620.715, 620.72, 620.725, 620.73, 620.735, 620.74, 620.745, 620.75, 620.755, 620.76, 620.765, and 620.77, Florida Statutes, are repealed.

Section 26. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, on line 2, after the semicolon (;) insert: creating ss. 620.81001, 620.81002, 620.8101, 620.8102, 620.8103, 620.8104, 620.8105, 620.81055, 620.8106, 620.8107, 620.8201, 620.8202, 620.8203, 620.8204, 620.8301, 620.8302, 620.8303, 620.8304, 620.8305, 620.8306, 620.8307, 620.8308, 620.8401, 620.8402, 620.8403, 620.8404, 620.8405, 620.8406, 620.8501, 620.8502, 620.8503, 620.8504, 620.8601, 602.8602, 620.8603, 620 8701, 620 8702, 620 8703, 620 8704, 620.8705, 620.8801, 620 8802, 620.8803, 620.8804, 620.8805, 620.8806, 620.8807, 620.8901, 620.8902, 620.8903, 620.8904, 620.8905, 620.8906, 620.8907, 620.8908, F.S.; providing for uniformity of application and construction; providing a short title; providing definitions; providing for knowledge and notice; providing for effect of partnership agreements; providing supplemental principles; providing for executing, filing, and recording of certain partnership documents; providing fees; providing powers of the Department of State; providing for law governing internal relations within partnerships; providing applicability; providing for partnership as an entity; providing for formation of partnerships; providing for partnership property; specifying when property is partnership property; providing for partner agents of partnerships; providing for transfer of partnership property; providing for statements of partnership authority; providing for statements of denial; providing for partnership liability for certain conduct of partners; providing for liability of partners; providing for actions by partners and by partnerships; providing for liability of purported partners; providing for partner rights and duties; providing for distributions in kind; providing for partner's duties with respect to certain information; providing general standards for partner conduct; providing for actions by partners and partnerships; providing for continuation of partnership under certain circumstances; providing for certain partners with respect to partnership property; providing for transferable interests in partnerships; providing for transfer of certain interests; providing for transferable interests being subject to certain orders; specifying events causing partner dissociation; providing for partner's power to dissociate; specifying wrongful dissociation; providing for effect of partner dissociation; providing for purchase of interest of dissociated partner; providing for a dissociated partner's power to bind a partnership; providing for liability; providing for a statement of dissociation; providing for continued use of partnership name; specifying events causing dissolution of partnership business; providing for continuation of partnership after dissolution; providing for right to wind up partnership business; providing power to bind partnership after

dissolution; providing for statements of dissolution; providing for certain partner liability after dissolution; providing for settlement of accounts and contributions among partners under certain circumstances; providing definitions; providing for conversion of partnership to limited partnership; providing for conversion of limited partnership to partnership; providing for effects of conversion; providing for merger of partnerships; providing effects of merger; providing for statements of merger; providing for nonexclusivity; providing for applicability; providing a savings provision; amending s. 620.108, F.S.; revising the requirements pertaining to a certificate of limited partnership; amending s. 620.109, F.S.; revising the requirements pertaining to amendments to a certificate of limited partnership; amending s. 620.123, F.S.; revising the requirements pertaining to the admission of additional general partners to a limited partnership; amending s. 620.143, F.S.; revising the requirements pertaining to the withdrawal of a limited partner from a limited partnership; amending s. 620.169, F.S.; revising the requirements pertaining to the registration of foreign limited partnerships; amending s. 620.177, F.S.; revising the requirements pertaining to the renewal of authority of a domestic or foreign limited partnership; amending s. 620.186, F.S.; providing for the applicability of the Revised Uniform Partnership Act; amending s. 689.045, F.S.; revising the requirements pertaining to title of real property held by a partnership; providing an appropriation; providing for deposit of revenues collected in accordance with this act: providing for future repeal of ss. 620.56, 620.565, 620.57, 620.575, 620.58, 620.585, 620.59, 620.595, 620.60, 620.605, 620.61, 620.615, 620.62, 620.625, 620.63, 620.635, 620.64, 620.645, 620.65, 620.655, 620.66, 620.665, 620.67, 620.675, 620.68, 620.685, 620.69, 620.695, 620.70, 620.705, 620.71, 620.715, 620.72, 620.725, 620.73, 620.735, 620.74, 620.745, 620.75, 620.755, 620.76, 620.765, 620.77, F.S., relating to the Uniform Partnership Act; providing severability; amending

Senator Harris moved the following amendments to **Amendment 3** which were adopted:

Amendment 3A—On page 45, strike all of lines 6-8 and insert:

(a) Title to all personal property owned by the converting partnership or limited partnership remains vested in the converted entity. Title to all real property owned by the converting partnership or limited partnership shall be transferred by deed to the converted entity; and

Amendment 3B—On page 47, strike all of lines 4-6 and insert:

(b) Title to all personal property owned by each of the merged partnerships or limited partnerships vests in the surviving entity without reversion or impairment. Title to all real property owned by each of the merged partnerships or limited partnerships shall be transferred by deed to the surviving entity;

Amendment 3C—On page 49, lines 21-31 and on page 50, lines 1-3 strike all of those lines and insert:

(4) For the purposes of s. 620.8302, personal property of a surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon filing a statement of merger.

(5) A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to s. 620.8105(3), stating the name of a partnership or limited partnership that is a party to the merger in whose name property was held before the merger and the name of the surviving entity, but not containing all of the other information required by subsection (2), operates with respect to the partnerships or limited partnerships named to the extent provided in subsection (4).

Amendment 3 as amended was adopted.

The Committee on Governmental Reform and Oversight recommended the following amendments which were moved by Senator Harris and failed:

Amendment 4—On page 3, strike all of lines 10-16 and insert: *in this paragraph and s. 265.2861, the following amounts at the following times:* ~~An amount equal to 43 percent of all moneys deposited each month into the fund is transferred to the General Revenue Fund.~~

Amendment 5—On page 3, line 30, through page 4, line 2, strike all of said lines and insert:

(d) The division shall transfer from the trust fund to the Museum of Florida History Trust Fund, quarterly, prorations transferring 30 percent of all funds deposited pursuant to s. 865.09(13), but not less than $2 million each fiscal year, to be used as provided in s. 267.0617.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Harris and failed:

Amendment 6—On page 1, line 13, strike "*Museum of Florida History*" and insert: *Historic Preservation*

Senator Harris moved the following amendments which were adopted:

Amendment 7—On page 3, line 3, through page 4, line 6, strike all of said lines and insert:

Section 3. Paragraph (c) of subsection (2) of section 607.1901, Florida Statutes, is amended, and paragraphs (d), (e), (f), (g), and (h) are added to that subsection, to read:

607.1901 Corporations Trust Fund.—

(2)

(c) *In the last six months of any fiscal year,* an amount equal to 43 percent of all moneys deposited each month into the fund is transferred to the General Revenue Fund.

(d) The division shall transfer from the trust fund to the Cultural Institutions Trust Fund, quarterly, the amount of $10 from each corporate annual report fee collected by the division and prorations transferring $8 million each fiscal year, to be used as provided in s. 265.2861.

(e) The division shall transfer from the trust fund to the Youth and Children's Museum Trust Fund, quarterly, prorations transferring $250,000 each fiscal year to be used as provided in s. 265.609.

(f) The division shall transfer from the trust fund to the Science Museum Trust Fund, quarterly, prorations transferring $550,000 each fiscal year to be used as provided in s. 265.608.

(g) The division shall transfer from the trust fund to the Historic Preservation Trust Fund, quarterly, prorations transferring $2 million each fiscal year, to be used as provided in s. 267.0671.

(h) The division shall transfer from the trust fund to the Museum of Florida History Trust Fund, quarterly, prorations transferring $1.5 million each fiscal year, to be used as provided in s. 267.072.

Amendment 8—On page 4, between lines 11 and 12, insert:

Section 6. Notwithstanding any provisions of the General Appropriations Act for fiscal year 1995-1996 which provide General Revenue Funding for Arts Grants of the Division of Cultural Affairs and operations of the Ringling Museum, these programs shall be funded by the Cultural Institutions Trust Fund.

(Renumber subsequent section.)

Senator McKay moved the following amendment which was adopted:

Amendment 9 (with Title Amendment)—On page 1, line 23, insert:

Section 1. Section 620.78, Florida Statutes, is created to read:

620.78 Registered limited liability partnerships.—

(1) To become and to continue as a registered limited liability partnership, a partnership must file with the Secretary of State a statement of registration or a statement of renewal of registration stating:

(a) The name of the partnership.

(b) The address of its principal office if its principal office is not located in this state.

(c) The address of a registered office in this state, and the name and address of a registered agent for service of process in this state, which the partnership is required to maintain.

(d) The number of partners.

(e) A brief statement describing the business in which the partnership engages.

(f) The effective date of the partnership if such date is later than the time of filing, with such effective date not to exceed 60 days from the date of filing.

(g) The partnership's Federal Employer Identification Number, pursuant to s. 119.092.

(h) The name and recorded document number of any partner that is an entity other than an individual.

(2) A statement of registration or statement of renewal of registration must be executed by a majority in voting interest of the partners or by one or more partners authorized by a majority in voting interest of the partners.

(3) A statement of registration or statement of renewal of registration must include a fee of $100 for each partner in the partnership on the date of the registration who, if a natural person, has his principal residence in this state or, if any other person, is incorporated, organized, or exists under the laws of this state. The fee payable for any 1 year for a registered limited liability partnership may not exceed $10,000.

(4) A statement of registration or statement of renewal of registration must include either:

(a) A copy of an insurance policy demonstrating that the partnership complies with s. 620.82(1)(a); or

(b) An affidavit sworn to by a majority in voting interest of the partners or by one or more partners authorized by a majority in voting interest of the partners that the partnership complies with s. 620.82(1)(b).

(5) The Department of State shall register any partnership as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, that submits a completed statement of registration or statement of renewal of registration accompanied by the required fee. A partnership becomes a registered limited liability partnership at the time of the filing of the initial statement of registration with the department or at any later date or time specified in the statement of registration if, in either case, there has been compliance with the requirements of ss. 620.78-620.85. A partnership continues as a registered limited liability partnership if there has been compliance with the requirements of ss. 620.78-620.85.

(6) Registration is effective for 1 year after the date the statement of registration is filed, unless voluntarily canceled by filing with the Department of State a statement of cancellation of registration under s. 620.785. Registration, whether pursuant to an original statement of registration or a statement of renewal of registration as a registered limited liability partnership, is renewed if the partnership files with the Department of State a statement of renewal of registration. An initial statement of renewal of registration expires 1 year after the date an original statement of registration would have expired if the statement of renewal of registration had not been filed; a subsequent statement of renewal of registration expires 1 year after the date the preceding statement of renewal of registration would have expired if such subsequent statement of renewal of registration had not been filed. The status of the registered limited liability partnership shall not be affected by subsequent changes in the information contained in the statement of registration or statement of renewal of registration after its filing.

(7) The Secretary of State shall prescribe forms for a statement of registration or a statement of renewal of registration and may adopt rules to implement this part.

(8)(a) A statement of registration or statement of renewal of registration filed with the Department of State under this section may be amended or corrected by filing with the department a certificate of amendment executed by a majority in voting interest of the partners or by one or more partners authorized by a majority in voting interest of the partners of the registered limited liability partnership. The registered limited liability partnership must file a certificate of amendment no later than 90 days after:

1. A change in the name of the registered limited liability partnership;

2. A change in the mailing address of its principal office;

3. A change in the name or address of the registered agent of the registered limited liability partnership; or

4. A partner of the registered limited liability partnership becomes aware that any statement in a registration was false in any material respect when made or that an event has occurred which makes the registration inaccurate in any material respect.

(b) The filing of a certificate of amendment must be accompanied by a fee of $60. The certificate of amendment must provide:

1. The name of the limited liability partnership and, if it has been changed, the name under which it was registered.

2. The date of filing of its initial registration.

3. A statement of the text of the amended or corrected information. The filing of a certificate of amendment does not alter the effective date of the registration being amended or corrected.

Section 2. Section 620.785, Florida Statutes, is created to read:

620.785 Cancellation of registration as a registered limited liability partnership.—

(1) A registered limited liability partnership registered under s. 620.78 may cancel its registration by filing with the Department of State a statement of cancellation of registration as a limited liability partnership executed by a majority in voting interest of the partners or by one or more partners authorized by a majority in voting interest of the partners.

(2) The statement of cancellation of registration must set forth the name of the registered limited liability partnership; the date of filing of the initial statement of registration; the effective date of cancellation of registration if it is not to be effective when it is filed, which date must occur after the date of filing; and any other information the partners decide to include.

(3) The filing of a statement of cancellation of registration by a partnership under this section is effective only to cancel the partnership's registration as a limited liability partnership, and does not, unless it specifically so provides, indicate the dissolution of the partnership.

Section 3. Section 620.79, Florida Statutes, is created to read:

620.79 Partner's liability.—

(1) A partner in a registered limited liability partnership is not individually liable for obligations, or liabilities of the partnership, whether in tort, contract, or otherwise, arising from errors, omissions, negligence, malpractice, or wrongful acts committed by another partner or by an employee, agent, or representative of the partnership while the partnership is a registered limited liability partnership.

(2) Notwithstanding any other provision of this act, a partner in a registered limited liability partnership is individually liable for:

(a) Any debts or obligations of the partnership arising from any cause other than those specified in subsection (1);

(b) Any errors, omissions, negligence, malpractice, or wrongful acts committed by the partner or any person under the partner's direct supervision and control in the specific activity in which the error, omission, negligence, malpractice, or wrongful act occurred; or

(c) Any debts for which the partner has agreed in writing to be liable.

(3) Subsection (1) does not affect the individual liability of a partner in a registered limited liability partnership if the registered limited liability partnership is not in compliance with s. 620.82 at the time of the occurrence giving rise to partnership liability.

(4) The cancellation of the registration of a registered limited liability partnership, the withdrawal of a partner, or the dissolution of a registered limited partnership does not affect the limitation on the liability of an individual partner in the registered limited liability partnership provided in subsection (1) with respect to errors, omissions, negligence, malpractice, or wrongful acts committed while registration under s. 620.78 was in effect.

(5) Sections 620.78-620.85 do not affect the liability of the registered limited liability partnership when such liability arises out of debts, obligations, or liabilities of the partnership or the acts and omissions of the partners, employees, agents, or other representatives of the partnership which are chargeable to the partnership.

(6) A registered limited liability partnership may sue or be sued and the partners therein need not be joined in any such suit; however, a judgment against the registered limited liability partnership is enforceable only against the registered limited liability partnership.

(7) A partner in a registered limited liability partnership, other than a partner liable under subsection (2), is not a proper party to a proceeding by or against a registered limited liability partnership, the object of which is to recover damages or enforce the obligations arising out of the errors, omissions, negligence, malpractice, or wrongful acts described in subsection (1).

Section 4. Section 620.80, Florida Statutes, is created to read:

620.80 Liability; governing law.—

(1) The liability of partners of a registered limited liability partnership formed and registered under ss. 620.78-620.85 must be determined solely by ss. 620.78-620.85 and the laws of this state.

(2) If a conflict arises between the laws of this state and the laws of any other jurisdiction with regard to the liability of a partner of a registered limited liability partnership formed and registered under ss. 620.78-620.85 for the debts, obligations, or liabilities of the partnership or for the errors, omissions, negligence, malpractice, or wrongful acts of another partner, employee, agent, or representative of the partnership, the laws of this state shall govern in determining such liability.

Section 5. Section 620.81, Florida Statutes, is created to read:

620.81 Name of registered limited liability partnership.—

(1) The name of each registered limited liability partnership must contain the words "Registered Limited Liability Partnership" or the abbreviation "L.L.P." or the designation "LLP" as the last words or letters of its name. The name of a registered limited liability partnership shall be filed for purpose of public notice only and shall create no presumption of ownership beyond that which is created under the common law and which shall be recorded by the Department of State without regard to any other name recordation.

(2) A registered limited liability partnership's exclusive right to the use of a name may be reserved in the manner provided in s. 620.104(2).

(3) Omission of the words "Registered Limited Liability Partnership" or the abbreviation "L.L.P." or the designation "LLP" in the use of the name of the registered limited liability partnership renders any person who participates in the omission, or knowingly acquiesces in it, liable for any indebtedness, damage, or liability occasioned by the omission, provided, however that liability to any claimant is not created under this subsection by any such omission if the claimant had, or in the exercise of reasonable diligence should have had, actual notice that the partnership was a registered limited liability partnership.

Section 6. Section 620.82, Florida Statutes, is created to read:

620.82 Insurance of registered limited liability partnerships.—

(1) A registered limited liability partnership must:

(a) Carry at least the minimum coverage amount of liability insurance that covers the errors, omissions, negligence, malpractice, or wrongful acts for which liability is limited by s. 620.79(1) and which liability insurance may not have a deductible or self-insured retention per claim of more than 10 percent of the per-claim policy limit unless the difference between the maximum permitted deductible or self-insured retention and the actual deductible or self-insured retention under the liability insurance is otherwise funded as provided in paragraph (b); or

(b) Provide at least the minimum coverage amount in funds specifically designated and segregated for the satisfaction of judgments against the partnership or its partners based on the types of errors, omissions, negligence, incompetence, malpractice, or wrongful acts for which liability is limited by s. 620.79(1). Such funds must be provided by obtaining or maintaining an unexpired, irrevocable letter of credit for an amount no less than the minimum coverage amount. The letter of credit must be payable to the partnership, or to a paying agent of the partnership, as beneficiary for payment to creditors under a final judgment or settlement arising from the types of errors, omissions, negligence, incompetence, malpractice, or wrongful acts for which liability is limited by s. 620.79(1). The letter of credit shall be payable upon presentation of a final judgment indicating liability and awarding damages to be paid by the partnership or upon presentment of a settlement agreement signed by all parties to the agreement when the final judgment or settlement is a result of a claim against the partnership. The letter of credit must be irrevocable, nonassignable, and nontransferable, except that the letter of credit may be replaced by liability insurance that complies with paragraph (a). Such letter of credit must have been issued by any bank or savings association organized and existing under the laws of this state or any bank or savings association organized under the laws of the United States that has its principal place of business in this state or has a branch office that is authorized under the laws of this state or of the United States to receive deposits in this state.

(2) As used in this section, the term "minimum coverage amount" means $100,000 multiplied by the number of general partners in excess of one, but the minimum coverage amount may not be less than $200,000 or greater than $3 million.

(3) If a registered limited liability partnership complies with the requirements of subsection (1), the requirements of this section are not admissible as evidence and may in no way be made known to a jury in determining any issue of liability for or extent of any debt, obligation, or damages in question.

(4) The minimum coverage amount requirements of this section do not limit the liability of or damages recoverable from a registered limited liability partnership or of any person or entity whose liability is not otherwise limited as provided in ss. 620.78-620.85.

Section 7. Section 620.825, Florida Statutes, is created to read:

620.825 Effect of statement of registration and renewal thereof.—

(1) If a registered limited liability partnership or a foreign registered limited liability partnership dissolves and its business is continued without the termination of the partnership, the registration of the dissolved partnership as a registered limited liability partnership or a foreign registered limited liability partnership remains applicable to the partnership continuing the business and it is not necessary to make a new filing under s. 620.78 or s. 620.84 until the registration must be renewed or canceled.

(2) The fact that a statement of registration, or a statement of renewal of registration, as a registered limited liability partnership or as a foreign registered limited liability partnership is on file with the Department of State is notice that the partnership is a registered limited liability partnership or a foreign registered limited liability partnership and is notice of all other facts set forth in such statement.

Section 8. Section 620.83, Florida Statutes, is created to read:

620.83 Regulation of registered limited liability partnerships rendering professional services.—

(1) A registered limited liability partnership providing professional services regulated by a state regulatory agency remains under the supervision of the regulatory agency and is subject to disciplinary proceedings and penalties in the same manner and to the same extent as individuals and their licenses, certificates, and registrations relative to such profession.

(2) A registered limited liability partnership providing professional services must provide a certified copy of its registration and of each certificate of amendment to the regulatory agency with authority over such profession within 30 days after the filing of such registration or amendment with the Secretary of State.

Section 9. Section 620.835, Florida Statutes, is created to read:

620.835 Domestic limited partnership as a registered limited liability partnership.—

(1) A domestic limited partnership may become a registered limited liability partnership by complying with this section.

(2) A domestic limited partnership is a registered limited liability partnership as well as a domestic limited partnership if it:

(a) Registers as a registered limited liability partnership as provided in s. 620.78, as permitted by its partnership agreement, or, if its partnership agreement is silent, with the consent of partners sufficient to amend its partnership agreement.

(b) Complies with s. 620.82.

(c) Has as the last words or letters of its name the word "Limited," or the abbreviation "Ltd.," followed by the words "registered limited liability partnership" or the abbreviation "L.L.P." or the designation "LLP".

(3) In applying s. 620.78 to a limited partnership, all references to partners means general partners.

(4) If a domestic limited partnership is a registered limited liability partnership, s. 620.79 applies to its general partners and to any of its limited partners who, under the provisions of part I, the Florida Revised Uniform Limited Partnership Act, are liable for the debts, obligations, or liabilities of the limited partnership.

Section 10. Section 620.84, Florida Statutes, is created to read:

620.84 Foreign registered limited liability partnership.—

(1) Before transacting business in this state as such, and in order to continue transacting business in this state, a foreign registered limited liability partnership must file with the Department of State a statement of registration as a foreign registered limited liability partnership, or a statement of renewal of registration as a foreign registered limited liability partnership, setting forth the information described in s. 620.78(1) and specifying the jurisdiction in which it is registered as a limited liability partnership and the effective date of its registration in that jurisdiction.

(2) Except as otherwise provided in subsection (3), a foreign registered limited liability partnership must comply with s. 620.78, and the provisions of that section govern the registration, renewal of registration, and amendment of registration of a foreign registered limited liability partnership. For purposes of s. 620.78(4), a foreign registered limited liability partnership that obtains, pursuant to the laws or regulations of another jurisdiction, liability insurance that covers, or funds specifically designated and segregated for the satisfaction of judgments against the partnership or its partners based on, errors, omissions, negligence, incompetence, malpractice, wrongful acts, and such other conduct for which the liability of partners is limited under the law of the jurisdiction in which the foreign registered liability partnership is organized, shall be deemed to comply with s. 620.82 if the amount thereof is equal to or greater than the minimum coverage amount as defined in s. 620.82(2). A foreign registered limited liability partnership shall be deemed to comply with s. 620.82(1)(b) if the letter of credit is issued by any bank or savings association organized under the laws of the United States or the State of Florida.

(3) The statement of registration, or statement of renewal of registration, as a foreign registered limited liability partnership must be accompanied by a fee of $100 for each partner in the partnership as of the date of the registration who, in the case of a natural person, has his principal residence in Florida, or in the case of any other person, is incorporated or otherwise organized or existing under the laws of this state, but in no event may the fee payable for any year with respect to the foreign registered limited liability partnership under this section exceed $10,000 or be less than $100.

(4) The laws of the state or other jurisdiction under which a foreign registered limited liability partnership is organized shall govern its organizational and internal affairs including the liability of partners, solely by reason of being partners, for the debts, obligations, and liabilities of or chargeable to the partnership.

(5) A foreign registered limited liability partnership may not be prohibited from transacting business in this state because of a conflict between the laws of the jurisdiction under which it is organized and the laws of this state.

(6) The name of a foreign registered limited liability partnership must contain the words "Registered Limited Liability Partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name.

(7) A foreign registered limited liability partnership transacting business in this state without having filed a statement of registration or a statement of renewal of registration under subsection (1) may not maintain any court action in this state until the foreign registered limited liability partnership files such statement and pays all fees that it would have been required to pay had it filed a statement under subsection (1) before transacting business as a foreign registered limited liability partnership in this state. The failure of a foreign registered limited liability partnership that is transacting business in this state to comply with the provisions of this section does not impair the validity of any contract or act of the foreign registered limited liability partnership or prevent the foreign registered limited liability partnership from defending any court proceeding in this state.

(8) A foreign registered limited liability partnership is under the supervision of the regulatory bodies that supervise such profession under the laws of this state and is subject to disciplinary proceedings and penalties in the same manner as individuals and their licenses, certificates, and registrations relative to such profession.

Section 11. Section 620.845, Florida Statutes, is created to read:

620.845 Cancellation of registration as a foreign registered limited liability partnership.—

(1) A foreign registered limited liability partnership registered under s. 620.84 may cancel its registration to conduct business in this state by filing with the Department of State a statement of cancellation of registration as a foreign registered limited liability partnership executed by a majority in voting interest of the partners or by one or more partners authorized by a majority in voting interest of the partners.

(2) The statement of cancellation of registration as a foreign registered limited liability partnership must state the name of the foreign registered limited liability partnership; the date of filing of the initial statement of registration; the effective date of cancellation of registration if it is not to be effective when it is filed, which date must occur after the date of filing; and any other information the partners decide to include.

(3) The termination of status as a foreign registered limited liability partnership is not affected by errors in the information contained in the statement of cancellation.

(4) If a foreign registered limited liability partnership ceases to be denominated as a registered limited liability partnership under the laws of the jurisdiction under which the registered limited liability partnership is registered, it must, within 30 days after the occurrence of such event, file a statement of cancellation under this section.

Section 12. Section 620.85, Florida Statutes, is created to read:

620.85 Applicability of chapter to foreign and interstate commerce.—

(1) A registered limited liability partnership organized and existing under this chapter may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the Legislature that the legal existence of registered limited liability partnerships formed in this state be recognized outside the boundaries of this state and that, subject to any reasonable requirement of registration, a domestic registered limited liability partnership transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to programs administered by the Department of State; creating ss. 620.78, 620.785, 620.79, 620.80, 620.81, 620.82, 620.825, 620.83, 620.835, 620.84, 620.845, and 620.85, F.S.; providing requirements and procedures for becoming a registered limited liability partnership; providing for cancellation of registration; providing for liability of partners; providing for naming registered limited liability partnerships; requiring insurance or letters of credit; providing effect of a statement of registration or renewal; providing for regulation of certain partnerships; authorizing a domestic limited partnership to become a registered limited liability partnership; providing for foreign registered limited liability partnerships; providing for cancellation of registration as a foreign registered limited liability partnership; providing for application to foreign and interstate commerce;

On motion by Senator Harris, by two-thirds vote **SB 2296** as amended was read the third time by title, passed by the required constitutional three-fifths vote of the membership, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator McKay, by two-thirds vote **CS for HB 717** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator McKay—

CS for HB 717—A bill to be entitled An act relating to registered limited liability partnerships; creating ss. 620.78, 620.785, 620.79, 620.80, 620.81, 620.82, 620.825, 620.83, 620.835, 620.84, 620.845, and 620.85, F.S.; providing requirements and procedures for becoming a registered limited liability partnership; providing for cancellation of registration; providing for liability of partners; providing for naming registered limited liability partnerships; requiring insurance or letters of credit; providing effect of a statement of registration or renewal; providing for regulation of certain partnerships; authorizing a domestic limited partnership to become a registered limited liability partnership; providing for foreign registered limited liability partnerships; providing for cancellation of registration as a foreign registered limited liability partnership; providing for application to foreign and interstate commerce; providing an effective date.

—a companion measure, was substituted for **CS for SB 894** and read the second time by title. On motion by Senator McKay, by two-thirds vote **CS for HB 717** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB 2852—A bill to be entitled An act relating to trust funds; creating the Police and Firefighters' Premium Tax Trust Fund within the Division of Retirement of the Department of Management Services; providing for source of moneys and purposes; providing for future review and termination or re-creation of the fund; providing a contingent effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **CS for SB 2852** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—38 Nays—None

Consideration of **CS for SB 2858** was deferred.

CS for SB 16—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.051, F.S., relating to optional participation for cities and special districts; authorizing public hospital special districts in the Florida Retirement System to partially withdraw from the system and establish an alternative retirement plan for future employees only; providing for public hearing; providing for publication of notice; providing for an actuarial report; providing for presentation of the plan and report to each certified bargaining unit; requiring negotiation; providing for adoption of a resolution; providing conditions; providing a declaration of important state interest; providing for increase of retirement contributions; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Grant and adopted:

Amendment 1—On page 4, strike all of lines 21-25 and insert: members of the Florida Retirement System on January 1, 1996, shall be increased by .10 percent for the Regular Class; by .26 percent for the Senior Management Service Class; by .07 percent for the Special Risk Class; by .10 percent for the Special Risk Administrative Support Class; and for the following subclasses of the elected state and county officials classes: an increase by .10 percent for Justices and Judges; by .16 percent for the Governor, Lieutenant Governor, and Cabinet and State Attorneys and Public Defenders, and Legislators; and by .13 percent for County Elected Officers.

Senator Grant moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 4, between lines 25 and 26, insert:

Section 4. Section 8 of chapter 92-131, Laws of Florida, is repealed.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 18, after the semicolon (;) insert: repealing section 8 of chapter 92-131, Laws of Florida, which prohibits modification of a rule pertaining to the calculation of the average final compensation of certain individuals under the Florida Retirement System unless an appropriation is provided to fund certain salary incentive payments;

On motion by Senator Grant, by two-thirds vote **CS for SB 16** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—1

Consideration of **CS for SB 32** was deferred.

SB 462—A bill to be entitled An act relating to ad valorem taxation; amending s. 193.461, F.S.; providing that a person who fails to timely file an application for agricultural classification may petition the value adjustment board to grant such classification; providing a fee; authorizing the board or the property appraiser to grant the classification under certain conditions; amending s. 193.052, F.S., to conform; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 462** to conform the bill to **HB 69**.

Pending further consideration of **SB 462** as amended, on motion by Senator Jenne, by two-thirds vote **HB 69** was withdrawn from the Committees on Agriculture; and Ways and Means.

On motion by Senator Jenne, by two-thirds vote—

HB 69—A bill to be entitled An act relating to ad valorem taxation; amending s. 193.461, F.S.; providing that a person who fails to timely file an application for agricultural classification may petition the value adjustment board to grant such classification; providing a fee; authorizing the board or the property appraiser to grant the classification under certain conditions; amending s. 193.052, F.S., to conform; amending s. 193.075, F.S.; excluding appurtenances attached to certain mobile homes held for display by a licensed mobile home dealer or a licensed mobile home manufacturer from real property tax; amending s. 196.012, F.S.; providing that the rental of property for more than 6 months is presumed to be used for commercial purposes; amending s. 196.061, F.S.; providing that the rental of homestead property for more than two consecutive years constitutes abandonment; amending s. 194.011, F.S.; clarifying language relating to authority of homeowners' association to object to ad valorem tax assessments; providing an effective date.

—a companion measure, was substituted for **SB 462** and by two-thirds vote read the second time by title. On motion by Senator Jenne, by two-thirds vote **HB 69** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—3

The Senate resumed consideration of—

CS for SB 2422—A bill to be entitled An act relating to taxation; amending s. 212.08, F.S.; providing a partial exemption for charges for electricity used in manufacturing certain tangible personal property for sale; amending s. 212.08, F.S.; removing a prohibition against application of the exemption for machinery and equipment used in new or expanding businesses to printing or publishing firms that export from this state more than a specified percentage of their productive output; amending s. 199.143, F.S.; defining the term "residence" for the purpose of determining whether the intangibles tax is due in the maximum amount of a line of credit or at the time money is borrowed; providing an appropriation for tax refunds for qualified target-industry businesses; providing an effective date.

—with pending **Amendment 1** by Senator McKay as amended.

Senator Silver moved the following amendment to **Amendment 1** which was adopted:

Amendment 1H (with Title Amendment)—On page 1, between lines 11 and 12, insert:

Section 1. Subsection (5) of section 196.012, Florida Statutes, 1994 Supplement, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(5) "Educational institution" means a federal, state, parochial, church, or private school, college, or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools; *a nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation,* educational direct-support organizations created pursuant to ss. 229.8021, 240.299, and 240.331; and facilities located on the property of eligible entities which will become owned by those entities on a date certain.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 67, line 16, after the semicolon (;) insert: amending s. 196.012, F.S.; redefining the term "educational institution," for purposes of the exemption of such institutions from taxation, to include certain schools providing postgraduate dental education;

Senator Wexler moved the following amendment to **Amendment 1** which was adopted:

Amendment 1I (with Title Amendment)—On page 17, between lines 4 and 5, insert:

Section 13. Paragraph (f) of subsection (5) of section 212.08, Florida Statutes, 1994 Supplement, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(f) Motion picture or video equipment used in motion picture or television production activities and sound recording equipment used in the production of master tapes and master records.—

1. Motion picture or video equipment and sound recording equipment purchased or leased for use in this state in production activities is exempt from the tax imposed by this chapter upon an affirmative showing by the purchaser or lessee to the satisfaction of the department that the equipment will be used for production activities. The exemption provided by this paragraph shall inure to the taxpayer only through a refund of previously paid taxes. Notwithstanding the provisions of s. 212.095, such refund shall be made within 30 days of formal application, which application may be made after the completion of production activities or on a quarterly basis. Notwithstanding the provisions of chapter 213, the department shall provide the Department of Commerce with a copy of each refund application and the amount of such refund, if any.

2. For the purpose of the exemption provided in subparagraph 1.:

a. "Motion picture or video equipment" and "sound recording equipment" includes only equipment meeting the definition of "section 38 property" as defined in s. 48(a)(1)(A) and (B)(i) of the Internal Revenue Code that is used by the lessee or purchaser exclusively as an integral part of production activities; however, motion picture or video equipment and sound recording equipment does not include supplies, tape, records, film, or video tape used in productions or other similar items; vehicles or vessels; or general office equipment not specifically suited to production activities. ~~In addition, the term does not include equipment purchased or leased by television or radio broadcasting or cable companies licensed by the Federal Communications Commission.~~

b. "Production activities" means activities directed toward the preparation of a:

(I) Master tape or master record embodying sound; or

(II) Motion picture or television production which is produced for theatrical, commercial, advertising, or educational purposes and utilizes live or animated actions or a combination of live and animated actions. The motion picture or television production shall be commercially produced for sale or for showing on screens or broadcasting on television and may be on film or video tape.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 68, line 12, after the semicolon (;) insert: amending s. 212.05, F.S.; redefining the term "motion picture or video equipment and sound recording equipment";

Amendment 1 as amended was adopted.

On motion by Senator Gutman, by two-thirds vote **CS for SB 2422** as amended was read the third time by title, passed by the required constitutional two-thirds vote of the membership, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—3

THE PRESIDENT PRESIDING

MOTION TO RECONSIDER

Senator Dudley moved that the Senate reconsider the vote by which **CS for CS for SB 2684** passed as amended this day.

The motion was adopted. Further consideration of **CS for CS for SB 2684** as amended was deferred.

MOTION

On motion by Senator Jennings, the rules were waived and time of recess was extended until the completion of announcements and motions relating to committee reference.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, May 2, 1995: CS for SB 2164, SB 2360, CS for SB 2422, SB 152, SB 442, SB 2036, SB 6, CS for SB 734, CS for CS for SB 2684, SB 1074, SB 2664, SB 2404, SB 1940, CS for SB 1938, SB 1918, CS for SB 2706, SB 2068, CS for CS for SB 50, SB 280, CS for SB 658, CS for SB 2216, SB 2296, CS for SB 894, CS for SB 2852, CS for SB 2858, CS for SB 16, CS for SB 32, SB 462, CS for SB 764, SB 2236, SB 2100, CS for SB 822, SB 1014, CS for SB 1326, CS for SB 3018, SB 2078, SB 1774, CS for SB 1582, CS for SB 1352, SB 566, SB 348, CS for SB 1062, CS for SB 1436, CS for SB 1536, CS for SB 1588, CS for SB 1594, CS for SB 1808, SB 1656, CS for SB 1604, CS for SB 2506, SB 1556, CS for SB 1812, SB 1010, SB 1420, CS for SB 798, SB 896, SB 1310, SB 2186, SB 2434, HB 271

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Rules and Calendar withdraws the following bills and submits them for the Local Bill Calendar for Tuesday, May 2, 1995: HB 599, HB 657, HB 1259, HB 1285, HB 1467, HB 1565, HB 1595, HB 2057, HB 2361, SB 154, SB 1332, SB 1410, SB 1414, SB 1432, SB 1518, SB 1652, SB 1740, SB 2970, SB 2974, SB 2984, SB 2990, SB 2992, SB 3002, SB 3004, SB 3006, SB 3020, SB 3024, SB 3026, SB 3028, SB 3030, SB 3038, SB 3040, SB 3048, SB 3050

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Claims Bill Calendar for Tuesday, May 2, 1995: CS for SB 80, CS for SB 986, CS for SB 988, CS for SB 1412, CS for SB 1520, CS for SB 2318

Respectfully submitted,
Toni Jennings, Chairman

BILLS REFERRED TO SUBCOMMITTEE

May 2, 1995

The following have been referred to the Select Subcommittee on Claim Bills which will report to the full committee within 7 days: Senate Bills 352, 660, 1056

Fred R. Dudley, Chairman
Committee on Judiciary

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 582, SB 584, SB 590, SB 592, SB 596, SB 598, SB 600, SB 602, SB 604, SB 606, SB 610, SB 612, SB 624, CS for SB 1070 and SB 1758 which became law without his signature on May 2, 1995.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 507, HB 511, CS for HB 697, HB 721, CS for HB 799, CS for HB 2181, HB 2225, HB 2233, HB 2319, HB 2321, HB 2675, HB 2701, HB 2731; has passed by the required constitutional three-fifths vote of the membership HB 2717; has passed as amended HB 69, CS for HB 181, HB 407, CS for HB 2059, HB 2131, CS for HB 2619, HB 2621; has adopted HM 2729 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Claims and Representative Meek and others—

CS for HB 507—A bill to be entitled An act relating to the City of Hallandale; providing for the relief of Deborah Brown, personal representative of the estate of Ramon Turnquest, a deceased minor; providing an appropriation to compensate her for the death of Ramon Turnquest; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Special Master; and the Committees on Judiciary; and Ways and Means.

By Representative Miller and others—

HB 511—A bill to be entitled An act relating to community colleges; amending s. 240.311, F.S.; requiring the State Board of Community Colleges to develop guidelines for the conduct of employee grievances and complaints alleging discrimination; providing procedures relating to internal review, arbitration, formal and informal hearings, and appeals; providing an effective date.

—was referred to the Committees on Higher Education; Governmental Reform and Oversight; and Ways and Means.

By the Committee on Claims and Representative Tobin—

CS for HB 697—A bill to be entitled An act relating to the North Broward Hospital District; providing for the relief of Christopher Bruno, a minor, by and through his mother and legal guardian, Rosalie Bruno, and for the relief of Rosalie Bruno and Michael Bruno, individually; providing an appropriation to compensate them for injuries sustained by Christopher Bruno as a result of the negligence of the North Broward Hospital District, d.b.a. Broward General Medical Center; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Special Master; and the Committees on Judiciary; and Ways and Means.

By Representative Crady and others—

HB 721—A bill to be entitled An act relating to postsecondary education; amending s. 240.1201, F.S.; providing that certain members of the United States Armed Services be classified as residents for tuition purposes; providing qualifications; providing an effective date.

—was referred to the Committees on Higher Education; and Ways and Means.

By the Committee on Claims and Representative Geller—

CS for HB 799—A bill to be entitled An act relating to the City of Hollywood; providing for the relief of George Durant and Stephen Durant; providing an appropriation to compensate them for the death of Sonja Durant, wife and mother of George Durant and Stephen Durant, respectively, as a result of the negligence of the City of Hollywood; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Special Master; and the Committees on Judiciary; and Ways and Means.

By the Committee on Claims and Representative Heyman—

CS for HB 2181—A bill to be entitled An act relating to Metropolitan Dade County; providing for the relief of Eduardo Alonso; providing an appropriation to compensate him for injuries and damages sustained as a result of the negligence of Metropolitan Dade County; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Special Master; and the Committees on Judiciary; and Ways and Means.

By the Committee on Finance and Taxation; and Representative Ritchie and others—

CS for HB 2225—A bill to be entitled An act relating to taxation; repealing s. 192.091(7), F.S., which provides for application of a 1967 amendment relating to property appraisers' commissions; amending s. 192.102, F.S., relating to property appraisers' and tax collectors' commissions; deleting an obsolete applicability statement; amending s. 193.1142, F.S.; deleting an obsolete provision relating to approval of assessment rolls; amending s. 193.1145, F.S.; deleting an obsolete provision relating to recomputation of millage rates; amending s. 194.192, F.S.; deleting an obsolete provision relating to interest on unpaid taxes; amending s. 195.027, F.S.; deleting an obsolete provision relating to rules with respect to county computer programs; repealing s. 195.095(3), F.S., which provides for an obsolete waiver of requirements relating to contracts for electronic data processing equipment; amending s. 195.096, F.S.; deleting an obsolete provision relating to performance audits; amending s. 196.061, F.S.; deleting an obsolete provision relating to application of provisions relating to rental of a homestead; amending s. 196.1975, F.S.; deleting an obsolete provision relating to homes for the aged exemption applications; repealing s. 197.582(3), F.S., relating to an obsolete provision validating certain disbursements of proceeds of sale of lands for taxes; repealing s. 199.222, F.S., which provides duplicative language relating to confidentiality of intangible personal property tax returns; repealing s. 199.2825, F.S., which provided a one-time amnesty program for taxpayers subject to intangible tax; amending s. 203.01, F.S.; deleting obsolete rates for the tax on gross receipts for utility services; amending s. 203.04, F.S.; deleting obsolete provisions which repealed laws granting exemptions from gross

receipts taxes; repealing ss. 206.435 and 212.655, F.S., which provided a January 1, 1988, tax on motor fuel inventory; repealing s. 206.445, F.S., which provides authority for the settlement or compromise of penalties or interest which is duplicated in chapter 213; amending ss. 206.9915, 212.66, 336.021, 336.025, and 336.026, F.S., to conform; amending s. 212.62, F.S., deleting obsolete provisions relating to collection of the tax on the sale of fuel; amending s. 212.031, F.S.; deleting an obsolete exemption from the tax on the lease or rental of or license in real property; amending s. 212.04, F.S.; deleting an obsolete exemption to the tax on admissions; amending s. 212.05, F.S.; deleting obsolete provisions relating to occasional sales of vehicles and tax on interstate telecommunications services; deleting an obsolete rate of tax on charges for use of coin-operated amusement machines; repealing s. 212.0505, F.S., which imposes a tax on the unlawful sale of drugs, cannabis, and controlled substances which has been held unconstitutional; repealing s. 212.20(6)(c), F.S., which provides for distribution of the proceeds of said tax; amending s. 212.054, F.S.; deleting obsolete provisions relating to distribution of discretionary sales surtax proceeds; amending s. 212.0599, F.S.; deleting obsolete provisions relating to implementing rules; repealing s. 212.08(5)(j), F.S., which provides an obsolete exemption for machinery and equipment for marine discharge response corporations; amending s. 212.08, F.S.; deleting obsolete provisions relating to exemptions for political subdivisions, tasting beverages, and vessels engaged in interstate or foreign commerce; amending s. 212.081, F.S.; deleting obsolete intent language regarding sales tax exemptions; amending s. 212.05, F.S., to conform; amending s. 212.084, F.S.; deleting an obsolete provision relating to review of sales tax exemption certificates; amending s. 212.11, F.S.; removing obsolete provisions relating to estimated sales tax liability; amending s. 212.12, F.S.; deleting obsolete provisions relating to waiver of a penalty applicable to estimated tax payments; amending s. 212.183, F.S.; deleting an obsolete repeal of a rule; amending s. 212.20, F.S.; deleting an obsolete provision relating to distribution of sales tax revenues; amending s. 213.053, F.S.; deleting duplicative language relating to confidentiality of tax information; repealing s. 220.01, F.S., which provides a short title for the Florida income tax code; repealing s. 220.03(1)(bb), F.S., which provides an obsolete definition of "unitary business group"; repealing ss. 220.34(3), 220.53, 220.729, and 220.811, F.S., which provide duplicative language relating to settlement or compromise of penalties, rulemaking power of the Department of Revenue, and recordkeeping requirements with respect to said tax; amending ss. 220.12 and 213.015, F.S., to conform; amending s. 220.131, F.S.; deleting an obsolete election relating to affiliated groups; repealing s. 624.5106, F.S., which provides an obsolete export finance corporation investment credit against insurance premium taxes; amending s. 220.188, F.S., to conform; providing effective dates.

—was referred to the Committee on Ways and Means.

By Representative Betancourt—

HB 2233—A bill to be entitled An act relating to legislative organization; repealing s. 11.141, F.S., relating to the creation and designation of standing and select committees of the Senate and the House of Representatives; repealing s. 11.142, F.S., relating to meetings of such committees; amending s. 11.43, F.S., relating to powers of standing and select committees; clarifying provisions; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Representative Prewitt—

HB 2319—A bill to be entitled An act relating to Pasco County; repealing chapter 67-1890, Laws of Florida, relating to the levying of special taxes for road improvements in the unincorporated areas of Pasco County by petition or by the board of county commissioners' initiation; providing an effective date.

Proof of publication of the required notice was attached.

(Substituted for **SB 1518** on the Local Bill Calendar this day.)

By Representative Prewitt—

HB 2321—A bill to be entitled An act relating to Pasco County; repealing chapter 69-1458, Laws of Florida, authorizing the creation of streetlighting districts by petition and the levying of a special tax to pay for same; providing an effective date.

Proof of publication of the required notice was attached.

(Substituted for **SB 1652** on the Local Bill Calendar this day.)

By the Select Committee on Child Abuse and Neglect; and Representative Frankel and others—

HB 2675—A bill to be entitled An act relating to public records; creating s. 435.09, F.S.; providing an exemption from public records requirements for certain records and information obtained by licensing agencies and employers for the purpose of screening employees in positions providing care to children and vulnerable adults; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Criminal Justice.

By the Committee on Governmental Operations and Representative Lawson—

HB 2701—A bill to be entitled An act relating to public records; amending s. 119.07, F.S., which provides exemptions from public records requirements for the following: licensure, certification, and employment examination questions and answer sheets; active criminal intelligence and investigative information; identities of confidential informants and sources; information revealing surveillance techniques, law enforcement resources or policies, or undercover personnel; information revealing the identity or assets of a crime victim; criminal intelligence or investigative information received prior to January 25, 1979; identities of persons participating in ridesharing; the substance of a confession; sealed bids or proposals received by agencies; information relating to acquisition of real property by executive agencies; certain data processing software; records relating to complaints of discrimination; financial statements submitted by prospective bidders; certain records relating to an allegation of employment discrimination; and investigatory records of the Chief Inspector General or an agency inspector general; saving such exemptions from repeal; revising the exemptions for certain records supplied by telecommunications companies and certain medical information relating to agency employees and saving them from repeal; revising the exemption for information which would identify a subscriber obtained under the Statewide Provider and Subscriber Assistance Program, transferring it to s. 408.7056(4), F.S., and saving it from repeal; saving the exemption for certain records prepared by agency attorneys from repeal; providing an exemption for certain records prepared by the Attorney General's office in connection with capital collateral litigation; providing a finding of public necessity; providing for future review and repeal; correcting references; repealing s. 119.07(3)(a), (b), (r), (v), and (x), F.S., which provide exemptions from public records requirements for the following: records otherwise provided to be confidential; Department of Insurance examination reports; certain patient records obtained by the Department of Health and Rehabilitative Services from health maintenance organizations or health maintenance organization providers or in connection with review of trauma registry data; and certain medical information relating to state and water management district employees; amending ss. 101.5607, 119.011, 395.4025, 395.404, 409.2577, and 633.527, F.S.; correcting references; providing an effective date.

—was referred to the Committee on Governmental Reform and Oversight.

By the Committee on Finance and Taxation; and Representative Logan and others—

HB 2731—A bill to be entitled An act relating to state revenue limitations; providing procedures and requirements to implement the limitation on state revenues imposed by s. 1(e), Art. VII of the State Constitu-

tion; providing definitions; providing for calculation of the maximum amount of state revenue allowed; providing for adjustment of that amount; providing duties of the Comptroller, the Governor, the State Board of Administration, and state governmental entities; specifying actions to be taken when revenue collections exceed the limitation; providing an appropriation to the Budget Stabilization Fund if action is not taken; providing for refunds to taxpayers under certain conditions; providing an effective date.

—was referred to the Committee on Ways and Means.

By the Committee on Appropriations and Representative Ritchie—

HB 2717—A bill to be entitled An act relating to the Inmate Welfare Trust Fund; re-creating the Inmate Welfare Trust Fund; carrying forward current balances and continuing current sources and uses thereof; amending s. 945.215, F.S.; removing a requirement for appropriation and deposit into the Department of Corrections Grants and Donations Trust Fund of moneys held in inmate auxiliary, canteen, welfare, and similar funds for deposit into the Inmate Welfare Trust Fund; providing effective dates.

—was referred to the Committees on Criminal Justice; and Ways and Means.

By Representative Stafford and others—

HB 69—A bill to be entitled An act relating to ad valorem taxation; amending s. 193.461, F.S.; providing that a person who fails to timely file an application for agricultural classification may petition the value adjustment board to grant such classification; providing a fee; authorizing the board or the property appraiser to grant the classification under certain conditions; amending s. 193.052, F.S., to conform; amending s. 193.075, F.S.; excluding appurtenances attached to certain mobile homes held for display by a licensed mobile home dealer or a licensed mobile home manufacturer from real property tax; amending s. 196.012, F.S.; providing that the rental of property for more than 6 months is presumed to be used for commercial purposes; amending s. 196.061, F.S.; providing that the rental of homestead property for more than two consecutive years constitutes abandonment; amending s. 194.011, F.S.; clarifying language relating to authority of homeowners' association to object to ad valorem tax assessments; providing an effective date.

—was referred to the Committees on Agriculture; and Ways and Means.

By the Committee on Insurance and Representative Bainter and others—

CS for HB 181—A bill to be entitled An act relating to health insurance; creating s. 627.6691, F.S.; providing a short title; providing purpose and intent; providing for applicability; providing definitions; requiring that certain group health benefit plans provide for continuation of coverage under certain circumstances; providing requirements for minimum coverage; providing requirements for the beneficiary and the carrier upon the occurrence of a qualifying event giving rise to the potential election of continuation of coverage; requiring a carrier to include in policies, contracts, certificates, and plan booklets notice of a beneficiary's right to continue coverage; providing an effective date.

—was referred to the Committees on Banking and Insurance; Health Care; and Ways and Means.

By Representative Mackenzie and others—

HB 407—A bill to be entitled An act relating to education; amending s. 239.117, F.S., relating to postsecondary student fees; deleting provisions relating to college-preparatory programs, to the Community College Program Fund, and to community colleges; deleting certain requirements of the State Board of Community Colleges relating to course fees; changing the name of postsecondary vocational programs to certificate technical programs; amending s. 240.1201, F.S.; revising provisions relating to the loss of resident tuition status; amending s. 240.335, F.S.; eliminating a report by a community college district board of trustees concerning programs to eradicate discrimination in the granting of salaries to employees; amending s. 240.347, F.S.; eliminating salary information in the legislative budget request; amending s. 240.35, F.S.; revising provisions relating to the establishment of community college fees; revising fee exemptions; providing requirements for a student activity and service fee, an athletic fee, and a financial aid fee; providing for fee committees, adoption of fees, use of fees, and reporting; revising provisions relating to the capital improvement fee; providing purpose of fees; amending s. 240.36, F.S.; revising provisions relating to the Florida Academic Improvement Trust Fund for Community Colleges; amending s. 242.65, F.S.; revising provisions relating to the Council for the Florida School of the Arts; amending s. 240.551, F.S.; providing for funds associated with terminated and canceled contracts; providing for notification and cancellation procedures; providing an effective date.

—was referred to the Committees on Higher Education; and Ways and Means.

By the Committee on Business and Professional Regulation; and Representative Meek and others—

CS for HB 2059—A bill to be entitled An act relating to public accountancy; creating s. 473.3065, F.S.; establishing the certified public accountant education assistance program; providing for scholarships to eligible students; providing for the funding of scholarships; requiring Board of Accountancy rules; providing a penalty for certain violations; creating an advisory committee to assist in program administration; providing an appropriation; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Ways and Means.

By Representative Davis and others—

HB 2131—A bill to be entitled An act relating to Pinellas County; providing for the relief of Lawrence P. Brown as Personal Representative of the Estates of Susan A. Brown and Judith A. Brown and as surviving father of Susan A. Brown and Judith A. Brown; providing an appropriation to compensate him for the deaths of his daughters, Susan A. Brown and Judith A. Brown, due to the negligence of the Pinellas County Sheriff's Office; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Special Master; and the Committees on Judiciary; and Ways and Means.

By the Committees on Finance and Taxation; and Insurance; and Representative Cosgrove and others—

CS for HB 2619—A bill to be entitled An act relating to insurance; amending s. 215.555, F.S.; providing definitions; revising provisions relating to reimbursement contracts and premiums of the Florida Hurricane Catastrophe Fund; specifying powers and duties of the State Board of Administration; providing that violations of certain rules constitute violations of the Insurance Code; specifying applicability; amending s. 624.424, F.S.; requiring reports; amending s. 626.752, F.S.; providing an exception to exchange of business reporting requirements; amending s. 627.062, F.S.; providing for recoupment of Florida Hurricane Catastrophe Fund premium; creating s. 627.0626, F.S.; requiring separate calculation, reporting, and notice of wind premium; creating s. 627.0628, F.S.; creating the Florida Commission on Hurricane Loss Projection Methodology; providing legislative findings and intent; specifying membership, terms, powers, and duties; providing for per diem, travel, and staff support; requiring the commission to review actuarial methods, principles, standards, models, and output ranges; specifying effect of approval by the commission; amending s. 627.0629, F.S.; revising provisions relating to building code standards and enforcement; authorizing appointment of a windstorm loss mitigation committee to provide advice to the Department of Insurance; creating s. 627.4025, F.S.; defining "residential coverage"; amending s. 627.351, F.S.; revising provisions relating to the windstorm insurance risk apportionment plan, the Florida Property and Casualty Joint Underwriting Association, and the Residential Property and Casualty Joint Underwriting Association; specifying underwriting standards and limits; removing provisions relating to immediate activa-

tion of the Florida Property and Casualty Joint Underwriting Association; providing immunities; specifying scope of the Residential Property and Casualty Joint Underwriting Association; providing for apportionment of losses and expenses; providing for servicing of association policies; specifying policy forms that may be offered; revising provisions relating to the eligibility of particular risks for coverage; requiring the association to seek reinsurance coverage; providing for renewal surcharges; providing for lines of credit; providing rate standards; providing for rate filings; specifying revenues to be pledged to retire bonds; revising provision requiring credits against assessment; removing exemption from the insurance premium tax; transferring obligations, rights, assets, and liabilities of the Florida Property and Casualty Joint Underwriting Association to the Residential Property and Casualty Joint Underwriting Association; creating s. 627.3511, F.S.; providing for depopulation of the Residential Property and Casualty Joint Underwriting Association; providing legislative findings and intent; providing for bonuses, credits, and exemptions for insurers and agents with respect to risks removed from the association; specifying applicability; creating s. 627.3512, F.S.; providing for recoupment of residual market deficit assessments; amending s. 627.3515, F.S.; revising provisions relating to structure, duties, governance, and funding of the market assistance plan; amending s. 627.701, F.S.; restricting deductible provisions relating to wind coverage; requiring offer of certain deductibles; amending s. 627.7013, F.S.; specifying cancellations and nonrenewals subject to moratorium phaseout provisions; providing an appropriation; providing an effective date.

—was referred to the Committees on Banking and Insurance; and Ways and Means.

By the Committee on Insurance and Representative Cosgrove and others—

HB 2621—A bill to be entitled An act relating to health insurance; amending s. 627.4235, F.S.; clarifying coordination of benefits; amending s. 627.6043, F.S.; increasing a notice time period; creating s. 627.6045, F.S.; specifying requirements for policies relating to preexisting conditions; amending s. 627.641, F.S.; clarifying newborn children coverage provisions; creating s. 627.6414, F.S.; providing requirements for coverage for dependents; creating s. 627.6425, F.S.; providing for renewability of individual coverage; amending s. 627.6561, F.S.; clarifying a preexisting condition requirement; amending s. 627.6575, F.S.; clarifying newborn children coverage provisions; amending s. 627.662, F.S.; providing for application of payment of claims methodology provisions; creating s. 627.6621, F.S.; providing for additional coverage for spouse and dependents; amending s. 627.6645, F.S.; revising provisions relating to certain notifications; creating s. 627.6691, F.S.; creating the "Florida Health Insurance Coverage Continuation Act"; providing purpose and intent; providing applicability; providing definitions; providing for continuation of coverage under group health plans; providing requirements; providing procedures; requiring certain notice of a right to continue coverage; amending s. 627.6699, F.S.; revising provisions of the Employee Health Care Access Act; revising definitions; clarifying applicability and scope; revising availability of coverage provisions; revising restrictions relating to premium rates; revising provisions relating to small employers; clarifying standards to assure fair marketing; amending s. 636.007, F.S.; deleting a requirement that a municipality offer a prepaid ambulance service plan as part of emergency medical services in order to be exempt from certain provisions; creating s. 641.217, F.S.; providing minority recruitment and retention plan requirements; amending s. 641.31, F.S.; providing an additional requirement for health maintenance contracts; creating s. 641.31095, F.S.; providing for liability of succeeding health maintenance organizations under circumstances relating to replacement of contracts or policies; creating s. 641.3112, F.S.; providing requirements for dependent coverage; creating s. 641.3114, F.S.; providing requirements for policies relating to preexisting conditions; providing effective dates.

—was referred to the Committees on Banking and Insurance; Health Care; and Ways and Means.

By Representative Bloom—

HM 2729—A memorial to the Congress of the United States urging it to continue its financial support of the United States Travel and Tourism Administration and its efforts to promote tourism and urging the eventual establishment of a national tourism public/private partnership.

—was referred to the Committee on Rules and Calendar.

RETURNING MESSAGES—FINAL ACTION

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has passed SB 162, SB 242, SB 448, SB 450, SB 452 and SB 906.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable James A. Scott, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended CS for HB 153, HB 257, HB 259, HB 261, HB 293, HB 317, CS for HB's 491 and 791 and CS for HB 2375.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

SB 6

Yeas—32

Mr. President	Dudley	Jenne	Myers
Bankhead	Grant	Jennings	Ostalkiewicz
Bronson	Gutman	Johnson	Rossin
Burt	Harden	Jones	Silver
Casas	Hargrett	Kirkpatrick	Sullivan
Childers	Harris	Latvala	Thomas
Crist	Holzendorf	McKay	Wexler
Diaz-Balart	Horne	Meadows	Williams

Nays—5

Dantzler	Forman	Weinstein
Dyer	Kurth	

CS for SB 16

Yeas—37

Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Gutman	Kurth	Weinstein
Casas	Harden	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—1

Hargrett

Vote after roll call:

Yea to Nay—Meadows

CS for SB 80

Yeas—13

Mr. President	Gutman	Jones	Weinstein
Casas	Hargrett	Meadows	
Childers	Harris	Silver	
Forman	Holzendorf	Sullivan	

Nays—23

Bankhead	Dantzler	Jenne	Myers
Beard	Dudley	Jennings	Ostalkiewicz
Bronson	Dyer	Johnson	Rossin
Brown-Waite	Grant	Kurth	Wexler
Burt	Harden	Latvala	Williams
Crist	Horne	McKay	

Vote after roll call:

Yea to Nay—Jones, Meadows

SB 152

Yeas—38

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

CS for SB 658

Yeas—35

Bankhead	Dyer	Jenne	Ostalkiewicz
Beard	Forman	Jennings	Rossin
Bronson	Grant	Johnson	Silver
Brown-Waite	Gutman	Jones	Sullivan
Casas	Harden	Kirkpatrick	Thomas
Childers	Hargrett	Kurth	Weinstein
Crist	Harris	Latvala	Wexler
Diaz-Balart	Holzendorf	McKay	Williams
Dudley	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Meadows

CS for SB 734

Yeas—36

Bankhead	Diaz-Balart	Horne	Meadows
Beard	Dudley	Jenne	Myers
Bronson	Dyer	Jennings	Ostalkiewicz
Brown-Waite	Forman	Johnson	Rossin
Burt	Grant	Jones	Sullivan
Casas	Harden	Kirkpatrick	Thomas
Childers	Hargrett	Kurth	Weinstein
Crist	Harris	Latvala	Wexler
Dantzler	Holzendorf	McKay	Williams

Nays—1

Silver

CS for SB 986

Yeas—37

Mr. President	Dudley	Jenne	Rossin
Bankhead	Dyer	Jennings	Silver
Beard	Forman	Johnson	Sullivan
Bronson	Grant	Jones	Thomas
Brown-Waite	Gutman	Kirkpatrick	Weinstein
Casas	Harden	Kurth	Wexler
Childers	Hargrett	Latvala	Williams
Crist	Harris	Meadows	
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

CS for SB 988

Yeas—38

Mr. President	Dudley	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

CS for SB 1412

Yeas—36

Mr. President	Dudley	Horne	Myers
Bankhead	Dyer	Jenne	Ostalkiewicz
Beard	Forman	Jennings	Rossin
Bronson	Grant	Johnson	Silver
Casas	Gutman	Jones	Sullivan
Childers	Harden	Kirkpatrick	Thomas
Crist	Hargrett	Kurth	Weinstein
Dantzler	Harris	Latvala	Wexler
Diaz-Balart	Holzendorf	Meadows	Williams

Nays—None

CS for SB 1520

Yeas—36

Mr. President	Dantzler	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Beard	Dudley	Jennings	Ostalkiewicz
Bronson	Dyer	Johnson	Rossin
Brown-Waite	Forman	Jones	Silver
Burt	Gutman	Kirkpatrick	Sullivan
Casas	Harden	Kurth	Thomas
Childers	Hargrett	Latvala	Weinstein
Crist	Harris	McKay	Wexler

Nays—None

SB 1918

Yeas—37

Mr. President	Diaz-Balart	Jenne	Rossin
Bankhead	Dudley	Jennings	Silver
Beard	Dyer	Johnson	Sullivan
Bronson	Forman	Jones	Thomas
Brown-Waite	Grant	Kirkpatrick	Weinstein
Burt	Gutman	Kurth	Wexler
Casas	Harden	Latvala	Williams
Childers	Harris	McKay	
Crist	Holzendorf	Myers	
Dantzler	Horne	Ostalkiewicz	

Nays—1

Meadows

SB 1940

Yeas—35

Bankhead	Bronson	Burt	Childers
Beard	Brown-Waite	Casas	Crist

Dantzler	Harris	Kirkpatrick	Rossin
Diaz-Balart	Holzendorf	Kurth	Silver
Dudley	Horne	Latvala	Sullivan
Dyer	Jenne	McKay	Thomas
Grant	Jennings	Meadows	Weinstein
Harden	Johnson	Myers	Wexler
Hargrett	Jones	Ostalkiewicz	

Nays—None

SB 2036

Yeas—36

Mr. President	Dantzler	Holzendorf	Myers
Bankhead	Diaz-Balart	Horne	Ostalkiewicz
Beard	Dudley	Jennings	Rossin
Bronson	Dyer	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams

Nays—None

CS for SB 2216

Yeas—37

Bankhead	Dudley	Jenne	Rossin
Beard	Dyer	Jennings	Silver
Bronson	Forman	Johnson	Sullivan
Brown-Waite	Grant	Jones	Thomas
Burt	Gutman	Kurth	Weinstein
Casas	Harden	Latvala	Wexler
Childers	Hargrett	McKay	Williams
Crist	Harris	Meadows	
Dantzler	Holzendorf	Myers	
Diaz-Balart	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 2296

Yeas—38

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

CS for SB 2318

Yeas—39

Mr. President	Casas	Dyer	Harris
Bankhead	Childers	Forman	Holzendorf
Beard	Crist	Grant	Horne
Bronson	Dantzler	Gutman	Jenne
Brown-Waite	Diaz-Balart	Harden	Jennings
Burt	Dudley	Hargrett	Johnson
Jones	McKay	Rossin	Weinstein
Kirkpatrick	Meadows	Silver	Wexler
Kurth	Myers	Sullivan	Williams
Latvala	Ostalkiewicz	Thomas	

Nays—None

SB 2404

Yeas—38

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

CS for SB 2422

Yeas—36

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Bronson	Dyer	Jennings	Rossin
Brown-Waite	Forman	Johnson	Silver
Burt	Grant	Jones	Sullivan
Casas	Gutman	Kirkpatrick	Thomas
Childers	Harden	Kurth	Weinstein
Crist	Hargrett	Latvala	Wexler
Dantzler	Harris	McKay	Williams

Nays—3

Beard	Holzendorf	Meadows

SB 2664

Yeas—34

Bankhead	Diaz-Balart	Horne	Myers
Beard	Dudley	Jenne	Ostalkiewicz
Bronson	Dyer	Jennings	Rossin
Brown-Waite	Forman	Johnson	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Gutman	Kurth	Weinstein
Childers	Hargrett	Latvala	Williams
Crist	Harris	McKay	
Dantzler	Holzendorf	Meadows	

Nays—None

CS for CS for SB 2684

Yeas—31

Bankhead	Dantzler	Jenne	Ostalkiewicz
Beard	Diaz-Balart	Johnson	Rossin
Bronson	Dudley	Jones	Sullivan
Brown-Waite	Grant	Kurth	Thomas
Burt	Gutman	Latvala	Weinstein
Casas	Harden	McKay	Wexler
Childers	Harris	Meadows	Williams
Crist	Horne	Myers	

Nays—3

Forman	Hargrett	Holzendorf

Vote after roll call:

Yea—Dyer, Silver

CS for SB 2852

Yeas—38

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

ROLL CALLS ON HOUSE BILLS

CS for HB 41

Yeas—36

Mr. President	Dudley	Jenne	Myers
Bankhead	Dyer	Jennings	Ostalkiewicz
Beard	Forman	Johnson	Rossin
Brown-Waite	Grant	Jones	Silver
Casas	Gutman	Kirkpatrick	Sullivan
Childers	Harden	Kurth	Thomas
Crist	Harris	Latvala	Weinstein
Dantzler	Holzendorf	McKay	Wexler
Diaz-Balart	Horne	Meadows	Williams

Nays—None

HB 69

Yeas—35

Bankhead	Dudley	Jenne	Myers
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Harris	Latvala	Wexler
Dantzler	Holzendorf	McKay	Williams
Diaz-Balart	Horne	Meadows	

Nays—3

Crist	Hargrett	Ostalkiewicz

CS for HB 621

Yeas—38

Mr. President	Diaz-Balart	Jenne	Ostalkiewicz
Bankhead	Dudley	Jennings	Rossin
Beard	Dyer	Johnson	Silver
Bronson	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Harden	Kurth	Weinstein
Casas	Hargrett	Latvala	Wexler
Childers	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	

Nays—None

CS for HB 717

Yeas—38

Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—None

CS for HB 737

Yeas—37

Bankhead	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	
Dudley	Jenne	Ostalkiewicz	

Nays—None

CS for HB 821

Yeas—37

Mr. President	Dudley	Jenne	Ostalkiewicz
Bankhead	Dyer	Jennings	Rossin
Beard	Forman	Johnson	Silver
Bronson	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Burt	Harden	Kurth	Wexler
Casas	Hargrett	Latvala	Williams
Childers	Harris	McKay	
Dantzler	Holzendorf	Meadows	
Diaz-Balart	Horne	Myers	

Nays—1

Crist

CS for HB 1269

Yeas—36

Mr. President	Diaz-Balart	Holzendorf	Myers
Bankhead	Dudley	Horne	Ostalkiewicz
Beard	Dyer	Johnson	Rossin
Bronson	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Gutman	Kurth	Thomas
Casas	Harden	Latvala	Weinstein
Childers	Hargrett	McKay	Wexler
Crist	Harris	Meadows	Williams

Nays—None

HB 2505

Yeas—39

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	

Nays—None

ROLL CALLS ON LOCAL BILLS

The following roll call was taken on **House Bills 599, 657, 1259, 1285, 1467, 1565, 1595, 2057** and **2361; Senate Bills 1332, 1410, 1414** and **1432; House Bills 2319** and **2321; Senate Bills 1740, 2970, 2974, 2984, 2990, 2992, 3002, 3004, 3006, 3020, 3024, 3026** and **3028; HB 1301; Senate Bills 3038, 3040, 3048** and **3050** which passed this day:

Yeas—39

Mr. President	Diaz-Balart	Horne	Myers
Bankhead	Dudley	Jenne	Ostalkiewicz
Beard	Dyer	Jennings	Rossin
Bronson	Forman	Johnson	Silver
Brown-Waite	Grant	Jones	Sullivan
Burt	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kurth	Weinstein
Childers	Hargrett	Latvala	Wexler
Crist	Harris	McKay	Williams
Dantzler	Holzendorf	Meadows	

Nays—None

SB 154

Yeas—38

Mr. President	Bronson	Casas	Diaz-Balart
Bankhead	Brown-Waite	Childers	Dudley
Beard	Burt	Dantzler	Dyer
Forman	Horne	Latvala	Sullivan
Grant	Jenne	McKay	Thomas
Gutman	Jennings	Meadows	Weinstein
Harden	Johnson	Myers	Wexler
Hargrett	Jones	Ostalkiewicz	Williams
Harris	Kirkpatrick	Rossin	
Holzendorf	Kurth	Silver	

Nays—1

Crist

SELECT SUBCOMMITTEE APPOINTMENT

Senator Dudley announced the appointment of Senators Grant, Weinstein and Wexler to the Select Subcommittee on Claim Bills of the Committee on Judiciary.

ENROLLING REPORTS

SB 260, SB 530, CS for SB 552, CS for SB 622, SB 654, SB 890 and SB 1726 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 2, 1995.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 1 was corrected and approved.

CO-SPONSORS

Senator Forman—SB 900, CS for SB 2164; Senator Harden—CS for SB 2090; Senator Hargrett—CS for SB 1604; Senator Harris—SB 556; Senator Johnson—CS for SB 2808; Senator Kurth—CS for SB 2164; Senator Wexler—SB 1774; Senator Williams—CS for SB 1326

RECESS

On motion by Senator Jennings, the Senate recessed at 5:17 p.m. to reconvene at 10:00 a.m., Wednesday, May 3.